UNITED STATES CODE

1976 EDITION

CONTAINING THE GENERAL AND PERMANENT LAWS
OF THE UNITED STATES, IN FORCE
ON JANUARY 3, 1977

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by the Office of the Law Revision Counsel of the House of Representatives

VOLUME THREE

TITLE 12—BANKS AND BANKING
TO
TITLE 15—COMMERCE AND TRADE

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TITLES OF UNITED STATES CODE

*1. General Provisions.
2. The Congress.
*3. The President.
*4. Flag and Seal, Seat of Government, and the States.
*5. Government Organization and Employees.
*6. Surety Bonds.
7. Agriculture.
8. Aliens and Nationality.
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*This title has been enacted as law.
†This title has been eliminated by the enactment of Title 10.

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PREFACE—1976 EDITION

This ninth edition of the United States Code was prepared and published pursuant to section 285b of Title 2 of the Code. It contains a consolidation and codification of all the general and permanent laws of the United States which are in force on January 3, 1977. By statutory authority this edition may be cited "U.S.C. 1976 ed." Previous editions were published in 1926, 1934, 1940, 1946, 1952, 1958, 1964, and 1970.

Inasmuch as many of the general and permanent laws which are required to be incorporated in this Code are inconsistent, redundant, and obsolete, the Office of the Law Revision Counsel is engaged in a comprehensive project of revising and enacting the Code into law, title by title. Since 1947, bills have been enacted to revise, codify and enact into law Titles 1, 3, 4, 5, 6, 9, 10, 13, 14, 17, 18, 23, 28, 32, 35, 37, 38, 39, and 44. In addition, bills relating to other titles are also being prepared for introduction. When this work is completed all the titles of the Code will be legal evidence of the general and permanent law and recourse to the numerous volumes of the Statutes at Large for this purpose will be unnecessary.

The title and chapter structure of the 1970 edition, together with Supplement V thereto, has been substantially preserved, the only changes made having been necessitated by the enactment of legislation since 1970.

This edition continues the practice of setting out notes captioned "Section referred to in other sections". These notes have been inserted following each section that is referred to in the text of another section, indicating the section that contains the internal reference. In addition, there is included in this edition, for the first time, a comprehensive Table of Internal References which appears in the Tables volume. This Table consolidates all internal references contained in the individual "Section referred to in other sections" notes.

This edition has been prepared and published under the supervision of Edward F. Willett, Jr., Law Revision Counsel of the House of Representatives, with the assistance of the West Publishing Company, of St. Paul, Minnesota, which assisted in preparing all prior editions and supplements of the Code. Grateful acknowledgment is made of the cooperation by all who have helped in this work, particularly by the staffs of the publishing company and of the Office of the Law Revision Counsel, and by the Government Printing Office.

Thomas P O'Neill Jr.
M.C.

Speaker of the House of Representatives

WASHINGTON, D.C., *January 4, 1977.*

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217. Indictment and Information.
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223. Witnesses and Evidence.
225. Verdict.
227. Sentence, Judgment, and Execution.
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7. Instruction as to Nature and Effect of Alcoholic Drinks and Narcotics.
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9. National Training School for Boys.
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12. Foreign and Exchange Students.
13. Financial Assistance to Local Educational Agencies.
14. School Construction in Areas Affected by Federal Activities.
15. Studies and Research on Problems in Education.
16. Public Library Services and Construction.
17. National Defense Education Program.
18. Grants for Teaching in the Education of Handicapped Children.
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35. Environmental Education.
36. Emergency School Aid.
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38. Discrimination Based on Sex or Blindness.
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12. River and Harbor Improvements Generally.
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27. Legion of Valor of the United States of America.
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36. Big Brothers of America.
37. Jewish War Veterans, U.S.A., National Memorial, Inc.
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CHAPTER 1—THE COMPTROLLER OF THE CURRENCY

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§ 1. Bureau of Comptroller of the Currency

There shall be in the Department of the Treasury a bureau charged with the execution of all laws passed by Congress relating to the issue and regulation of a national currency secured by United States bonds and, under the general supervision of the Board of Governors of the Federal Reserve System, of all Federal Reserve notes, except for the cancellation and destruction, and accounting with respect to such cancellation and destruction, of Federal Reserve notes unfit for circulation, the chief officer of which bureau shall be called the Comptroller of the Currency, and shall perform his duties under the general directions of the Secretary of the Treasury.

(R.S. § 324; Dec. 23, 1913, ch. 6, § 10, 38 Stat. 261; June 3, 1922, ch. 205, 42 Stat. 621; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; May 20, 1966, Pub. L. 89-427, § 1, 80 Stat. 161.)

CODIFICATION

Section is comprised of R.S. § 324, as amended by the eighth paragraph of act Dec. 23, 1913, § 10.

AMENDMENTS

1966—Pub. L. 89-427 excepted the cancellation and destruction, and accounting with respect to the cancellation and destruction, of Federal Reserve notes unfit for circulation from the area of general supervision exercised by the Bureau of the Comptroller of the Currency, under the general supervision of the Board of Governors of the Federal Reserve System, over the issue and regulation of the national currency secured by United States bonds.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System. See note under section 241 of this title.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Comptroller of Currency, see Parts 1, 17, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by Reorg. Plan No. 26 of 1950, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees.

PRIOR PROVISIONS

R.S. § 324 is derived from act June 3, 1864, ch. 106, § 1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

§ 2. Comptroller of the Currency; appointment; term

The Comptroller of the Currency shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold his office for a term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate.

(R.S. § 325; Aug. 23, 1935, ch. 614, § 209, 49 Stat. 707.)

CODIFICATION

Provisions of this section which prescribed the annual basic compensation of the Comptroller of the Currency were omitted to conform to the provisions of the Executive Schedule. See section 5314 of Title 5, Government Organization and Employees.

AMENDMENTS

1935—Act Aug. 23, 1935, omitted "on the recommendation of the Secretary of the Treasury" following "President", where first appearing, and changed the salary from "$5,000 a year" to "$15,000 a year".

REPEALS

Act Oct. 15, 1949, ch. 695, § 4, 63 Stat. 880, formerly cited to text, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, were not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

COMPENSATION OF COMPTROLLER OF CURRENCY

Compensation of Comptroller, see section 5314 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

R.S. § 325 is derived from act June 3, 1964, ch. 106, § 1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Appointing power, see Const. art. 2, § 2, cl. 2.

§ 3. Oath of Comptroller

The Comptroller of the Currency shall, within fifteen days from the time of notice of his appointment, take and subscribe the oath of office.

(R.S. § 326; Sept. 9, 1959, Pub. L. 86-251, § 1(d), 73 Stat. 488; June 6, 1972, Pub. L. 92-310, title II, § 223 (a), 86 Stat. 206.)

AMENDMENTS

1972—Pub. L. 92-310 eliminated provisions which required the Comptroller to give a bond in the sum of $250,000.

1959—Pub. L. 86-251 increased the surety bond requirement from $100,000 to $250,000.

PRIOR PROVISIONS

R.S. § 326 is derived from act June 3, 1864, ch. 106, § 1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Oath of office, see Const. art. 6, cl. 3; section 3331 of Title 5, Government Organization and Employees.

§ 4. Deputy Comptrollers

The Secretary of the Treasury shall appoint no more than four Deputy Comptrollers of the Currency, one of whom shall be designated First Deputy Comptroller of the Currency, and shall fix their salaries. Each Deputy Comptroller shall take the oath of office and shall perform such duties as the Comptroller shall direct. During a vacancy in the office or during the absence or disability of the Comptroller, each Deputy Comptroller shall possess the power and perform the duties attached by law to the office of the Comptroller under such order of succession following the First Deputy Comptroller as the Comptroller shall direct.

(R.S. § 327; Mar. 4, 1923, ch. 252, § 209(b), 42 Stat. 1467; Sept. 9, 1959, Pub. L. 86-251, § 1(a), 73 Stat. 487; June 6, 1972, Pub. L. 92-310, title II, § 223(b), 86 Stat. 206.)

CODIFICATION

R.S. § 327, contained after the word "Secretary" the following "who shall be entitled to a salary of two thousand five hundred dollars a year, and" which has been omitted from this section on authority of act Mar. 4, 1923, § 209(b), fourth sentence, which was classified to former section 9a of this title and regulated the salaries of deputy comptrollers.

AMENDMENTS

1972—Pub. L. 92-310 eliminated provisions which required each Deputy Comptroller to give a bond in the sum of $100,000.

1959—Pub. L. 86-251 provided for the appointment of four Deputy Comptrollers instead of one, the designation of one as the First Deputy, the fixing of salaries, increase in surety bond requirement from $50,000 to $100,000 and order of succession.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 327 is derived from act June 3, 1864, ch. 106, § 1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Oath of office, see Const. art. 6, cl. 3; section 3331 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9 of this title.

§§ 5, 6. Repealed. Pub. L. 86-251, § 1(b), (c)(1), Sept. 9, 1959, 73 Stat. 487, 488

Section 5, act Mar. 4, 1909, ch. 297, § 1, 35 Stat. 867, related to appointment, succession in office and penal

bond of assistant deputy comptroller and is now covered by section 4 of this title.

Section 6, act Mar. 4, 1923, ch. 252, title II, § 209(b) (pt.), 42 Stat. 1467, related to appointment, oath of office, penal bond, assigned duties and administration of national agricultural credit corporation provisions of third Deputy Comptroller and is now covered by section 4 of this title.

§ 7. Chief of examining division

The Comptroller of the Currency may designate a national bank examiner to act as chief of the examining division in his office.

(Jan. 3, 1923, ch. 22, 42 Stat. 1096.)

CODIFICATION

Section is based on Treasury Department Appropriation Act, 1924, act Jan. 3, 1923.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

SIMILAR PROVISIONS

Similar provisions were contained in act Feb. 17, 1922, ch. 55, 42 Stat. 375, and in earlier appropriation acts.

§ 8. Clerks

The Comptroller of the Currency shall employ, from time to time, the necessary clerks, to be appointed and classified by the Secretary of the Treasury, to discharge such duties as the comptroller shall direct.

(R.S. § 328.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 328 is derived from act June 3, 1864, ch. 106, § 1, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Classification of civilian employees, see section 5101 et seq. of Title 5, Government Organization and Employees.

§ 9. Additional examiners, clerks, and other employees

The Comptroller of the Currency is authorized to employ such additional examiners, clerks, and other employees as he deems necessary to carry out the provisions of sections 4, 6, 9, 10, 1151 to 1318, and 1322 of this title and to assign to duty in the office of his bureau in Washington such examiners and assistant examiners as he shall deem necessary to assist in the performance of the work of that bureau.

(Mar. 4, 1923, ch. 252, title II, § 209(b), 42 Stat. 1467.)

REFERENCES IN TEXT

Section 6, referred to in text, was repealed by Pub. L. 86-251, § 1(c)(1), Sept. 9, 1959, 73 Stat. 488.

Sections 1151, 1161 to 1163, 1171, 1172, 1181, 1182, 1191, 1201, 1202, 1211 to 1215, 1221 to 1223, 1231, 1232, 1241 to 1244, 1246, 1247, 1249, 1251, 1261, 1271, 1281 to 1283, 1291 to 1293, 1301 to 1303, and 1322 of this title, included within the reference to sections 1151 to 1318, and 1322 of this title, were repealed by Pub. L. 86-230, § 24, Sept. 8, 1959, 73 Stat. 466.

Section 1151a, included within the reference to sections 1151 to 1318, was repealed by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

Sections 1245, 1248, and 1311 to 1318, included in the enumeration of sections 1151 to 1318 of this title, referred to in text, were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948.

CODIFICATION

Section is comprised of subsec. (b), third sentence, of section 209 of act Mar. 4, 1923. For classification to this title of other provisions of section 209, see Statutes At Large Table in Tables volume.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 9a. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 645

Section, act Mar. 4, 1923, ch. 252, title II, § 209(b), 42 Stat. 1467, authorized the Comptroller to fix in advance the pay of deputy comptrollers, examiners, clerks, and certain other employees.

§ 10. Salaries of Deputy Comptrollers, examiners, and other employees as part of bank examination expenses

The salaries of the Deputy Comptrollers and of all national bank examiners and assistant examiners assigned to duty in the office of the bureau in Washington in connection with the supervision of national banks shall be considered part of the expenses of the examinations provided for by subchapter XV of chapter 3 of this title.

(Mar. 4, 1923, ch. 252, title II, § 209(b), 42 Stat. 1467; Sept. 9, 1959, Pub. L. 86-251, § 1(c)(2), 73 Stat. 488.)

REFERENCES IN TEXT

Subchapter XV [§ 481 et seq.] of chapter 3 of this title, referred to in text, was in the original a reference to section 5240 of the Revised Statutes.

CODIFICATION

Section is comprised of subsec. (b), fifth sentence, of section 209 of act Mar. 4, 1923. For classification to this title of other provisions of section 209, see Statutes At Large Table in Tables volume.

AMENDMENTS

1959—Pub. L. 86-251 included all Deputy Comptrollers instead of only two deputy comptrollers and eliminated provisions deeming the salaries of deputy comptroller, examiners, assistant examiners, clerks and other employees as expenses of administration of national agricultural credit corporation provisions and considering the salary of the additional deputy comptroller as partly an expense of administration in proportion to time spent in such administration.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 9 of this title.

§ 11. Interest in national banks

It shall not be lawful for the Comptroller or the Deputy Comptroller of the Currency, either directly or indirectly, to be interested in any association issuing national currency under the laws of the United States.

(R.S. § 329.)

PRIOR PROVISIONS

R.S. § 329 is derived from act June 3, 1864, ch. 106, § 1, 13 Stat. 99, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Disqualification of former officers in matters connected with former duties, or official responsibilities, see section 207 of Title 18, Crimes and Criminal Procedure.

§ 12. Seal of Comptroller

The seal devised by the Comptroller of the Currency for his office, and approved by the Secretary of the Treasury, shall continue to be the seal of office of the comptroller, and may be renewed when necessary. A description of the seal, with an impression thereof, and a certificate of approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State.

(R.S. § 330; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 317.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 330 is derived from act June 3, 1864, ch. 106, § 2, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

§ 13. Rooms for Currency Bureau

There shall be assigned, from time to time, to the Comptroller of the Currency, by the Secretary of the Treasury, suitable rooms in the Treasury Building for conducting the business of the Currency Bureau, containing safe and secure fireproof vaults, in which the Comptroller shall deposit and safely keep all the plates not necessarily in the possession of engravers or printers, and other valuable things belonging to his department; and the Comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the business of his office.

(R.S. § 331.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 331 is derived from act June 3, 1864, ch. 106, § 3, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

§ 14. Report of Comptroller

The Comptroller of the Currency shall make an annual report to Congress.

(R.S. § 333; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 317; Aug. 7, 1946, ch. 770, § 1(39), 60 Stat. 869.)

AMENDMENTS

1946—Act Aug. 7, 1946, repealed in the opening clause, the requirement that the report to Congress shall be submitted at the commencement of its session, and repealed all provisions prescribing contents of the exhibits in the report.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISION

R.S. § 333 is derived from acts June 3, 1864, ch. 106, § 61, 13 Stat. 117, and Feb. 19, 1873, ch. 166, 17 Stat. 466. Act June 3, 1864, was the National Bank Act. See section 38 of this title.

§ 15. Repealed. Aug. 7, 1946, ch. 770, § 1(40, 50), 60 Stat. 869, 870

Section, act Apr. 28, 1902, ch. 594, § 1, 32 Stat. 138, required inclusion of expenses of liquidation of national banks in annual report of Comptroller of the Currency.

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NATIONAL BANK ACT REFERRED TO IN OTHER SECTIONS

Section 21 et seq. of this title is referred to in sections 35, 40, 41, 377, 501a, 1440, 1817, 2254 of this title; title 15 section 19; title 18 section 334; title 28 section 1348.

SUBCHAPTER I—ORGANIZATION AND GENERAL PROVISIONS

§ 21. Formation of national banking associations; incorporators; articles of association

Associations for carrying on the business of banking under this chapter may be formed by any number of natural persons, not less in any case than five. They shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed by the persons uniting to form the association, and a copy of them shall be forwarded to the Comptroller of the Currency, to be filed and preserved in his office.

(R.S. § 5133.)

REFERENCES IN TEXT

In the original, "this chapter" reads "this title" meaning title LXII of the Revised Statutes. Title LXII of the Revised Statutes was incorporated into the code as sections 21, 22 to 24, 26 to 29, 35 to 37, 39, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81 to 91, 93, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004 and 1005 of Title 18, Crimes and Criminal Procedure.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5133 is derived from act June 3, 1864, ch. 106, § 5, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 153 of this title.

§ 21a. Amendment of articles of association

Except as otherwise specifically provided by law, or by the articles of association of the particular national banking association, the articles of association of a national banking association may be amended with respect to any lawful matter, and any action requiring the approval of the stockholders of such association may be had by the approving vote of the holders of a majority of the voting shares of the stock of the association obtained at a meeting of the stockholders called and held pursuant to notice given by mail at least ten days prior to the meeting or pursuant to a waiver of such notice given by all stockholders entitled to receive notice of such meeting. A certified copy of every amendment to the articles of association adopted by the shareholders of a national banking association shall be forwarded to the Comptroller of the Currency, to be filed and preserved in his office.

(Pub. L. 86-230, § 13, Sept. 8, 1959, 73 Stat. 458.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 22. Organization certificate

The persons uniting to form such an association shall, under their hands, make an organization certificate, which shall specifically state:

First. The name assumed by such association; which name shall include the word "national" and be subject to the approval of the Comptroller of the Currency.

Second. The place where its operations of discount and deposit are to be carried on, designating the State, Territory, or District, and the particular county and city, town, or village.

Third. The amount of capital stock and the number of shares into which the same is to be divided.

Fourth. The names and places of residence of the shareholders and the number of shares held by each of them.

Fifth. The fact that the certificate is made to enable such persons to avail themselves of the advantages of this chapter.

(R.S. § 5134; Pub. L. 86-230, § 25, Sept. 8, 1959, 73 Stat. 466.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

AMENDMENTS

1959—Subsec. First. Pub. L. 86-230 substituted "which named shall include the word 'national' and be" for "which name shall be".

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5134 is derived from act June 3, 1864, ch. 106, § 6, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Business, transaction in place specified in organization certificate, see section 81 of this title.

Change of name or location, see section 30 of this title.

§ 23. Acknowledgment and filing of certificate

The organization certificate shall be acknowledged before a judge of some court of record, or notary public; and shall be, together with the acknowledgment thereof, authenticated by the seal of such court, or notary, transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office.

(R.S. § 5135.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5135 is derived from act June 3, 1864, ch. 106, § 6, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

§ 24. Corporate powers of associations

Upon duly making and filing articles of association and an organization certificate a national banking association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such, and in the name designated in the organization certificate, it shall have power—

First. To adopt and use a corporate seal.

Second. To have succession from February 25, 1927, or from the date of its organization if organized after February 25, 1927, until such time as it be dissolved by the act of its shareholders owning two-thirds of its stock, or until its franchise becomes forfeited by reason of violation of law, or until terminated by either a general or a special Act of Congress or until its affairs be placed in the hands of a receiver and finally wound up by him.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law and equity, as fully as natural persons.

Fifth. To elect or appoint directors, and by its board of directors to appoint a president, vice president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places.

Sixth. To prescribe, by its board of directors, bylaws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

Seventh. To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this chapter. The business of dealing in securities and stock by the association shall be limited to purchasing and selling such securities and stock without recourse, solely upon the order, and for the account of, customers, and in no case for its own account, and the association shall not underwrite any issue of securities or stock; *Provided,* That the association may purchase for its own account investment securities under such limitations and restrictions as the Comptroller of the Currency may by regulation prescribe. In no event shall the total amount of the investment securities of any one obligor or maker, held by the association for its own account, exceed at any time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund, except that this limitation shall not require any association to dispose of any securities lawfully held by it on August 23, 1935. As used in this section the term "investment securities" shall mean marketable obligations, evidencing indebtedness of any person, copartnership, association, or corporation in the form of bonds, notes and/or debentures commonly known as investment securities under such further definition of the term "investment securities" as may by regulation be prescribed by the Comptroller of the Currency. Except as hereinafter provided or otherwise permitted by law, nothing herein contained shall authorize the purchase by the association for its own account of any shares of stock of any corporation. The limitations and restictions herein contained as to dealing in, underwriting and purchasing for its own account, investment securities shall not apply to obligations of the United States, or general obligations of any State or of any political subdivision thereof, or obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of 1969 [D.C. Code, § 1-1446], or obligations issued under authority of the Federal Farm Loan Act, as amended, or issued by the thirteen banks for cooperatives or any of them or the Federal Home Loan Banks, or obligations which are insured by the Secretary of Housing and Urban Development under title XI of the National Housing Act [12 U.S.C. 1749aaa et seq.] or obligations which are insured by the Secretary of Housing and Urban Development

(hereinafter in this sentence referred to as the "Secretary") pursuant to section 207 of the National Housing Act [12 U.S.C. 1713], if the debentures to be issued in payment of such insured obligations are guaranteed as to principal and interest by the United States, or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association, or mortgages, obligations or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or section 306 of the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1454 or 1455], or obligations of the Federal Financing Bank or obligations of the Environmental Financing Authority, or obligations or other instruments or securities of the Student Loan Marketing Association, or such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949 [42 U.S.C. 1460(h)]) as are secured by an agreement between the local public agency and the Secretary in which the local public agency agrees to borrow from said Secretary, and said Secretary agrees to lend to said local public agency, monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended) [42 U.S.C. 1437 et seq.] as are secured (1) by an agreement between the public housing agency and the Secretary in which the public housing agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the public housing agency, prior to the maturity of such obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary if such contract shall contain the covenant by the Secretary which is authorized by subsection (b) of section 22 of the United States Housing Act of 1937, as amended, [42 U.S.C. 1437d(g)], and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) [42 U.S.C. 1437d(g)] shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations, or (3) by a pledge of both annual contributions under an annual contributions contract containing the covenant by the Secretary which is authorized by section 6(g) of the United States Housing Act of 1937 [42 U.S.C. 1437d(g)], and a loan under an agreement between the local public housing agency and the Secretary in which the public housing agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the public housing agency, prior to the maturity of the obligations involved, moneys in an amount which (together with any other moneys irrevocably committed under the annual contributions contract to the payment of principal and interest on such obligations) will suffice to provide for the payment when due of all installments of principal and interest on such obligations, which moneys under the terms of the agreement are required to be used for the purpose of paying the principal and interest on such obligations at their maturity: *Provided,* That in carrying on the business commonly known as the safe-deposit business the association shall not invest in the capital stock of a corporation organized under the law of any State to conduct a safe-deposit business in an amount in excess of 15 per centum of the capital stock of the association actually paid in and unimpaired and 15 per centum of its unimpaired surplus. The limitations and restrictions herein contained as to dealing in and underwriting investment securities shall not apply to obligations issued by the International Bank for Reconstruction and Development, the Inter-American Development Bank or the Asian Development Bank, or obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes, which are at the time eligible for purchase by a national bank for its own account, nor to bonds, notes and other obligations issued by the Tennessee Valley Authority or by the United States Postal Service: *Provided,* That no association shall hold obligations issued by any of said organizations as a result of underwriting, dealing, or purchasing for its own account (and for this purpose obligations as to which it is under commitment shall be deemed to be held by it) in a total amount exceeding at any one time 10 per centum of its capital stock actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund. Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.], and may make investments in a partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of that Act [42 U.S.C. 3937(a) or 3937(c)]. Notwithstanding any other provision of this paragraph, the association may purchase for its own account shares of stock issued by any State housing corporation incorporated in the State in which the association is located and may make investments in loans and commitments for loans to any such corporation: *Provided,* That in no event shall the total amount of such stock held for its own account and such investments in loans and commitments made by the association exceed at any time 5 per centum of its capital stock actually paid in and unimpaired plus 5 per centum of its unimpaired surplus fund. Notwithstanding any other provision in this paragraph, the association may purchase for its own account shares of stock issued

by a corporation organized solely for the purpose of making loans to farmers and ranchers for agricultural purposes, including the breeding, raising, fattening, or marketing of livestock. However, unless the association owns at least 80 per centum of the stock of such agricultural credit corporation the amount invested by the association at any one time in the stock of such corporation shall not exceed 20 per centum of the unimpaired capital and surplus of the association.

Eighth. To contribute to community funds, or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare, such sums as its board of directors may deem expedient and in the interests of the association, if it is located in a State the laws of which do not expressly prohibit State banking institutions from contributing to such funds or instrumentalities.

Ninth. To issue and sell securities which are guaranteed pursuant to section 1721(g) of this title.

(R.S. § 5136; July 1, 1922, ch. 257, § 1, 42 Stat. 767; Feb. 25, 1927, ch. 191, § 2, 44 Stat. 1226; June 16, 1933, ch. 89, § 16, 48 Stat. 184; Aug. 23, 1935, ch. 614, § 308, 49 Stat. 709; Feb. 3, 1938, ch. 13, § 13, 52 Stat. 26; June 11, 1940, ch. 301, 54 Stat. 261; June 29, 1949, ch. 276, § 1, 63 Stat. 298; July 15, 1949, ch. 338, title VI, § 602(a), 63 Stat. 439; Apr. 9, 1952, ch. 169, 66 Stat. 49; Aug. 2, 1954, ch. 649, title II, § 203, 68 Stat. 622; Aug. 23, 1954, ch. 834, § 2, 68 Stat. 771; July 26, 1956, ch. 741, title II, § 201(c), 70 Stat. 667; Aug. 6, 1959, Pub. L. 86-137, § 2, 73 Stat. 285; Aug. 7, 1959, Pub. L. 86-147, § 10, 73 Stat. 301; Sept. 8, 1959, Pub. L. 86-230, § 1(a), 73 Stat. 457; Sept. 16, 1959, Pub. L. 86-278, 73 Stat. 563; Sept. 23, 1959, Pub. L. 86-372, title IV, § 420, 73 Stat. 679; Sept. 2, 1964, Pub. L. 88-560, title VII, § 701(c), 78 Stat. 800; Mar. 16, 1966, Pub. L. 89-369, § 10, 80 Stat. 72; Nov. 3, 1966, Pub. L. 89-754, title V, § 504(a)(1), 80 Stat. 1277; May 25, 1967, Pub. L. 90-19, § 27(a), 81 Stat. 28; Aug. 1, 1968, Pub. L. 90-448, title VIII, §§ 804(c), 807(j), title IX, § 911, title XVII, § 1705(h), 82 Stat. 543, 545, 550, 605; Aug. 12, 1970, Pub. L. 91-375, § 6(d), 84 Stat. 776; June 23, 1972, Pub. L. 92-318, title I, § 133(c)(1), 86 Stat. 269; Dec. 9, 1969, Pub. L. 91-143, § 12(b), as added July 13, 1972, Pub. L. 92-349, title I, § 101, 86 Stat. 466; Oct. 18, 1972, Pub. L. 92-500, § 12(n), 86 Stat. 902; Aug. 16, 1973, Pub. L. 93-100, § 5(c), 87 Stat. 344; Dec. 29, 1973, Pub. L. 93-224, § 14, 87 Stat. 941; Dec. 31, 1973, Pub. L. 93-234, title II, § 207, 87 Stat. 984; Aug. 22, 1974, Pub. L. 93-383, title II, § 206, title VIII, § 805(c)(1), 88 Stat. 668, 726.)

REFERENCES IN TEXT

Words "this chapter" in par. (7), see References in Text note under section 21 of this title.

The Federal Farm Loan Act, referred to in par. (7), is act July 17, 1916, ch. 245, 39 Stat. 360, which was classified to section 641 et seq. of this title prior to its repeal by Pub. L. 92-181, § 5.26(a), Dec. 10, 1971, 85 Stat. 624. See chapter 23 (§ 2001 et seq.) of this title.

Title XI of the National Housing Act, referred to in par. (7), is title XI of act June 27, 1934, ch. 847, as added by Pub. L. 89-754, title V, § 502(a), Nov. 3, 1966, 80 Stat. 1274, and is classified to subchapter IX-B (§ 1749aaa et seq.) of chapter 13 of this title.

The United States Housing Act of 1937, referred to in par. (7), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, and is classified to chapter 8 (§ 1437 et seq.) of title 42, The Public Health and Welfare.

Title IX of the Housing and Urban Development Act of 1968, referred to in par. (7), is title IX of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 547, which is classified to chapter 49 (§ 3931 et seq.) of Title 42, The Public Health and Welfare.

AMENDMENTS

1974—Par. (7). Pub. L. 93-383 substituted "1437d(g)" for "1421a(b)" wherever appearing therein, struck out "either" preceding "(1)", "(which obligations shall have a maturity of not more than eighteen months)" in cl. (1) and "or" preceding "(2)", added cl. (3), and added reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title.

1973—Par. (7). Pub. L. 93-234 authorized investments by national banks in agricultural credit corporations.

Pub. L. 93-224 inserted "or obligations of the Federal Financing Bank" following "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association".

Pub. L. 93-100 added provision that the association may purchase shares of stock issued by state housing corporations incorporated in the state in which the association is located and make investments in loans and commitments for loans to such corporations with certain limitations.

1972—Par. (7). Pub. L. 92-500 inserted "or obligations of the Environmental Financing Authority" following "Government National Mortgage Association".

Pub. L. 92-349 inserted provisions that the limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations of the Washington Metropolitan Area Transit Authority which are guaranteed by the Secretary of Transportation under section 9 of the National Capital Transportation Act of 1969.

Pub. L. 92-318 included obligations or other instruments or securities of the Student Loan Marketing Association.

1970—Par. (7). Pub. L. 91-375 made limitations and restrictions contained in this section as to dealing in and underwriting investment securities inapplicable to bonds, notes and other obligations issued by the United States Postal Service.

1968—Par. (7). Pub. L. 90-448, § 807(j), inserted words "or the Government National Mortgage Association" following "Federal National Mortgage Association".

Pub. L. 90-448, § 911, authorized the association to purchase for its own account shares of stock issued by a corporation authorized to be created pursuant to sections 3931-3940 of Title 42, and to make investments in a partnership, limited partnership, or joint venture formed pursuant to section 3937(a) or 3937(c) of Title 42.

Pub. L. 90-448, § 1705(h), included obligations issued by any State or political subdivision or any agency of a State or political subdivision for housing, university, or dormitory purposes.

Par. (9). Pub. L. 90-448, § 804(c), added par. (9).

1967—Par. (7). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development (hereafter in this sentence referred to as the 'Secretary')" for "Federal Housing Administrator"; and "Secretary" for "Housing and Home Finance Administrator" following "local public agency and the", for "Administrator" in two instances just before "agrees to lend", and for "Public Housing Administration" wherever appearing in cls. (1) and (2), respectively.

1966—Par. (7). Pub. L. 89-754 made limitations and restrictions for dealing, underwriting, and purchasing for its own account of investment securities inapplicable to obligations which are insured by Secretary of Housing and Urban Development under provisions re-

lating to mortgage insurance for group practice facilities.

Pub. L. 89-369 inserted provisions that the limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Asian Development Bank.

1964—Par. (7). Pub. L. 88-560 substituted "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association" for "or obligations of the Federal National Mortgage Association".

1959—Par. (7). Pub. L. 86-372 substituted "monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments" for "prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity" following "local public agency,".

Pub. L. 86-278 in last sentence substituted "any" for "either" preceding the words "of said organizations".

Pub. L. 86-230 deleted "or the Home Owners' Loan Corporation" following "Federal Home Loan Banks".

Pub. L. 86-147 inserted provisions that the limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Inter-American Development Bank.

Pub. L. 86-137 inserted provisions that the limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to bonds, notes and other obligations issued by the Tennessee Valley Authority.

1959—Par. (7). Pub. L. 86-372 substituted "monies in an aggregate amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay, when due, the interest on and all installments (including the final installment) of the principal of such obligations, which monies under the terms of said agreement are required to be used for such payments" for "prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity" following "local public agency,".

Pub. L. 86-278 in last sentence substituted "any" for "either" preceding the words "of said organizations".

Pub. L. 86-230 deleted "or the Home Owners' Loan Corporation" following "Federal Home Loan Banks".

Pub. L. 86-147 inserted provisions that the limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to obligations issued by the Inter-American Development Bank.

Pub. L. 86-137 inserted provisions that the limitations and restrictions contained in this section as to dealing in and underwriting investment securities shall not apply to bonds, notes and other obligations issued by the Tennessee Valley Authority.

1956—Par. (7). Act July 26, 1956, removed the restriction which prohibited a national bank from investing in obligations of the thirteen banks for cooperatives an amount exceeding 10 percent of its capital stock actually paid in and unimpaired and 10 percent of its unimpaired surplus.

1954—Par. (7). Act Aug. 23, 1954, substituted in last sentence "thirteen banks for cooperatives organized under the Farm Credit Act of 1933, or any of them" for "Central Bank for Cooperatives".

Act Aug. 2, 1954, substituted in the sixth sentence "or obligations of the Federal National Mortgage Association" for "or obligations of national mortgage associations".

1952—Par. (7). Act Apr. 9, 1952, enabled national banks and State member banks of the Federal Reserve System to receive compensation in the distribution of debentures issued by the Central Bank for Cooperation.

1949—Par. (7). Act July 15, 1949, inserted, in next to last sentence, "or such obligations of any local public agency (as defined in section 110(h) of the Housing Act of 1949) as are secured by an agreement between the local public agency and the Housing and Home Finance Administrator in which the local public agency agrees to borrow from said Administrator, and said Administrator agrees to lend to said local public agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or such obligations of a public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured either (1) by an agreement between the public housing agency and the Public Housing Administration in which the public housing agency agrees to borrow from the Public Housing Administration, and the Public Housing Administration agrees to lend to the public housing agency, prior to the maturity of such obligations (which obligations shall have a maturity of not more than eighteen months), monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity thereon, which monies under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such obligations at their maturity, or (2) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment, which are requisite to provide for the payment when due of all installments of principal and interest on such obligations".

Act June 29, 1949, added last sentence to permit national banks and State member banks of the Federal Reserve System to deal in and underwrite obligations issued by the International Bank subject to certain limitations.

1940—Par. (8). Act June 11, 1940, added par. Eighth.

1938—Par. (7). Act Feb. 3, 1938, inserted "or obligations of national mortgage associations", in last sentence.

1935—Par. (7). Act Aug. 23, 1935, amended second, fourth, and last sentences.

1933—Act June 16, 1933, among other changes, omitted former closing paragraph prohibiting transaction of any business by association prior to authorization by Comptroller, except that necessarily preliminary to organization.

1927—Act Feb. 25, 1927, omitted definite period of succession in par. (2) and added proviso clauses in par. (7).

EFFECTIVE DATE OF 1973 AMENDMENTS

Amendment by Pub. L. 93-224 effective Dec. 29, 1973, see section 20 of Pub. L. 93-224, set out as a note under section 2281 of this title.

Amendment by Pub. L. 93-100 effective Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as a note under section 1469 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

For effective date of amendment by Pub. L. 91-375, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act July 26, 1956, effective Jan. 1, 1957, see section 202 (a) of act July 26, 1956, set out as a note under section 1027 of this title.

EFFECTIVE DATE OF 1933 AMENDMENT

Act June 16, 1933, provided that restrictions of this section as to dealing in investment securities shall take effect one year after June 16, 1933.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

ABOLISHMENT OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of the Home Owners' Loan Corporation, by act June 30, 1953, ch. 170, § 21, 67 Stat. 126, see note under former section 1463 of this title.

PRIOR PROVISIONS

R.S. § 5136 is derived from act June 3, 1864, ch. 106, § 8, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Definition of State and State housing corporation, see section 1470 of this title.

Home Owners' Loan Corporation, termination of functions, see section 712a of Title 15, Commerce and Trade.

Investment of customers' moneys by futures commission merchants in investment securities, see section 6d of Title 7, Agriculture.

National Housing Act, applicability of this section to, see section 1733 of this title.

State member banks of Federal Reserve System, dealings in investment securities as subject to limitations and conditions of par. "Seventh" of this section, see section 335 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 335, 371c, 378, 1733, 1841, 1843 of this title; title 22 sections 283i, 286k-1, 286k-2.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1-1449, 47-253 of the District of Columbia Code.

§ 25. Omitted

CODIFICATION

Section, act July 1, 1922, ch. 257, § 2, 42 Stat. 767, repealed all acts extending the period of succession of national banking associations for 20 years, and made paragraph (2) of section 24 applicable in that respect.

§ 25a. Participation by national banks in lotteries and related activities

(a) Prohibited activities

A national bank may not—

(1) deal in lottery tickets;

(2) deal in bets used as a means or substitute for participation in a lottery;

(3) announce, advertise, or publicize the existence of any lottery;

(4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

A national bank may not permit—

(1) the use of any part of any of its banking offices by any persons for any purpose forbidden to the bank under subsection (a) of this section, or

(2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a) of this section.

(c) Definitions

As used in this section—

(1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting.

(2) The term "lottery" includes any arrangement whereby three or more persons (the "participants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection;

(B) a game, race, or contest; or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

(3) The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(d) Lawful banking services connected with operation of lotteries

Nothing contained in this section prohibits a national bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Comptroller of the Currency shall issue such regulations as may be necessary to the

strict enforcement of this section and the prevention of evasions thereof.

(R.S. § 5136A, as added Pub. L. 90-203, § 1(a), Dec. 15, 1967, 81 Stat. 608.)

EFFECTIVE DATE

Section 6 of Pub. L. 90-203 provided that: "The amendments made by this Act [which added this section and sections 339, 1730c, and 1829a of this title, and section 1306 of Title 18, Crimes and Criminal Procedure] shall take effect on April 1, 1968."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1306.

§ 26. Comptroller to determine if association can commence business

Whenever a certificate is transmitted to the Comptroller of the Currency, as provided in this chapter, and the association transmitting the same notifies the comptroller that all of its capital stock has been duly paid in, and that such association has complied with all the provisions of this chapter required to be complied with before an association shall be authorized to commence the business of banking, the comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of its directors, and the amount of the capital stock of which each is the owner in good faith, and generally whether such association has complied with all the provisions of this chapter required to entitled it to engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors, and by the president or cashier of the association, a statement of all the facts necessary to enable the comptroller to determine whether the association is lawfully entitled to commence the business of banking.

(R.S. § 5168; Pub. L. 86-230, § 2, Sept. 8, 1959, 73 Stat. 457.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

AMENDMENTS

1959—Pub. L. 86-230 substituted "all" for "at least 50 per centum" preceding "of its capital stock".

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5168 is derived from act June 3, 1864, ch. 106, § 17, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Conversion of national banks into state banks, see sections 214 to 214c of this title.

§ 27. Certificate of authority to commence banking

If, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it appears that such association is lawfully entitled to commence the business of banking, the comptroller shall give to such association a certificate, under his hand and official seal, that such association has complied with all the provisions required to be complied with before commencing the business of banking, and that such association is authorized to commence such business. But the comptroller may withhold from an association his certificate authorizing the commencement of business, whenever he has reason to suppose that the shareholders have formed the same for any other than the legitimate objects contemplated by this chapter.

(R.S. § 5169.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5169 is derived from act June 3, 1864, ch. 106, §§ 12, 18, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Conversion of national banks into state banks, see sections 214 to 214c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 28 of this title.

§ 28. Publication of certificate

The association shall cause the certificate issued under section 27 of this title to be published in some newspaper printed in the city or county where the association is located, for at least sixty days next after the issuing thereof; or, if no newspaper is published in such city or county, then in the newspaper published nearest thereto.

(R.S. § 5170.)

PRIOR PROVISIONS

R.S. § 5170 is derived from act June 3, 1864, ch. 106, § 18, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

§ 29. Power to hold real property

A national banking association may purchase, hold, and convey real estate for the following purposes, and for no others:

First. Such as shall be necessary for its accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by

the association, or shall purchase to secure debts due to it.

But no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years.

(R.S. § 5137; Feb. 25, 1927, ch. 191, § 3, 44 Stat. 1227.)

AMENDMENTS

1927—Par. (1). Act Feb. 25, 1927, omitted "immediate," preceding "accommodation," in first par.

PRIOR PROVISIONS

R.S. § 5137 is derived from act June 3, 1864, ch. 106, § 28, 13 Stat. 107, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Corporate powers of associations, see section 24 of this title.

Real estate, forest tract, construction and commercial loans by national banking associations, see section 371 of this title.

§ 30. Change of name or location

Any national banking association, with the approval of the Comptroller of the Currency, may change its name or change the location of the main office of such association within the limits of the city, town, or village in which it is situated. Any national banking association, with the approval of the Comptroller of the Currency, may change the location of the main office of such association to any other location outside the limits of the city, town, or village in which it is located, but not more than thirty miles distant, by the vote of shareholders owning two-thirds of the stock of such association. A duly authenticated notice of the vote and of the new name or location selected shall be sent to the Comptroller of the Currency; but no change of name or location shall be valid until the Comptroller shall have issued his certificate of approval of the same.

(May 1, 1886, ch. 73, § 2, 24 Stat. 18; Sept. 8, 1959, Pub. L. 86-230, § 3, 73 Stat. 457.)

AMENDMENTS

1959—Pub. L. 86-230 required approval of the Comptroller of the Currency before a national bank could change the location of its main office within the limitations of the city, town, or village in which it is situated.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Conversion of national banks into state banks, see sections 214 to 214c of this title.

§ 31. Rights and liabilities as affected by change of name

All debts, liabilities, rights, provisions, and powers of the association under its old name shall devolve upon and inure to the association under its new name.

(May 1, 1886, ch. 73, § 3, 24 Stat. 19.)

§ 32. Liabilities and suits as affected by change of name or location

Nothing contained in sections 30 and 31 of this title shall be so construed as in any manner to release any national banking association under its old name or at its old location from any liability, or affect any action or proceeding in law in which said association may be or become a party or interested.

(May 1, 1886, ch. 73, § 4, 24 Stat. 19.)

§§ 33 to 34c. Transferred

CODIFICATION

Act Nov. 7, 1918, ch. 209, 40 Stat. 1043, as amended, formerly classified to sections 33 to 34c of this title, which related to consolidation and merger of national banking associations and such associations and State banks, was completely amended by Pub. L. 86-230, § 20, Sept. 8 1959 73 Stat. 460, and is classified to sections 215 to 215b of this title.

Section 33, acts Nov. 7, 1918, ch. 209, § 1, 40 Stat. 1043; June 16, 1933, ch. 89, § 24(a), 48 Stat. 190; Aug. 23, 1935, ch. 614, § 330, 49 Stat. 718, related to consolidation of national banks, capital stock, dissenting shareholders, notice and valuation of shares, and is now covered by section 215 of this title.

Section 34, act Nov. 7, 1918, ch. 209, § 2, 40 Stat. 1044, related to effect of consolidation on rights and liabilities, and is now covered by section 215 of this title.

Section 34a, act Nov. 7, 1918, ch. 209, § 3, as added Feb. 25, 1927, ch. 191, § 1, 44 Stat. 1225, and amended June 16, 1933, ch. 89 § 24, 48 Stat. 190; Aug. 23, 1935, ch. 614, § 331, 49 Stat. 719; July 14, 1952, ch. 722, § 2, 66 Stat. 601, related to consolidation of State bank, etc. with national bank, capital stock and dissenting shareholders, and is now covered by section 215 of this title.

Section 34b, act Nov. 7, 1918, ch. 209, § 4, as added July 14, 1952, ch. 722, § 1, 66 Stat. 599, related to merger of national banking associations or state banks into national banking associations, and is now covered by section 215a of this title.

Section 34c, act Nov. 7, 1918, ch. 209, § 5, as added July 14, 1952, ch. 722, § 1, 66, Stat. 601, related to definitions, and is now covered by section 215b of this title.

§ 35. Organization of State banks as national banking associations

Any bank incorporated by special law of any State or of the United States or organized under the general laws of any State or of the United States and having an unimpaired capital sufficient to entitle it to become a national banking association under the provisions of the existing laws may, by the vote of the shareholders owning not less than 51 per centum of the capital stock of such bank or banking association, with the approval of the Comptroller of the Currency be converted into a national banking association, with any name approved by the Comptroller of the Currency: *Provided, however,* That said conversion shall not be in contravention of the State law. In such case the articles of association and organization certificate may be executed by a majority of the directors of the bank or banking institution, and the certificate shall declare that the owners of 51 per centum of the capital stock have authorized the directors to make such certificate and to change or convert the bank or banking institution into a national association. A majority of the directors, after executing the articles of as-

sociation and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a national association. The shares of any such bank may continue to be for the same amount each as they were before the conversion, and the directors may continue to be directors of the association until others are elected or appointed in accordance with the provisions of the statutes of the United States. When the Comptroller has given to such bank or banking association a certificate that the provisions of this Act have been complied with, such bank or banking association, and all its stockholders, officers, and employees shall have the same powers and privileges and shall be subject to the same duties, liabilities, and regulations, in all respects, as shall have been prescribed by the Federal Reserve Act and the National Banking Act for associations originally organized as national banking associations.

The Comptroller of the Currency may, in his discretion and subject to such conditions as he may prescribe, permit such converting bank to retain and carry at a value determined by the Comptroller such of the assets of such converting bank as do not conform to the legal requirements relative to assets acquired and held by national banking associations.

(R.S. § 5154; Dec. 23, 1913, ch. 6, § 8, 38 Stat. 258; Aug. 23, 1935, ch. 614, § 312, 49 Stat. 711.)

REFERENCES IN TEXT

Words "this Act", referred to in first paragraph, may refer to the Federal Reserve Act, act Dec. 23, 1913, from which this wording is derived; or section 5154 of the Revised Statutes which the Federal Reserve Act amended; or act June 3, 1864, from which R.S. § 5154 was derived; or Congress might have intended to refer to the preceding provisions of the 1913 amendment. Similar reference in R.S. § 5154 prior to 1913 amendment was to "this title," meaning Title LXII of the Revised Statutes, which title comprised the National Bank Act (June 3, 1864, ch. 106, 13 Stat. 99). See section 38 of this title. Note also specific reference to the Federal Reserve Act and the National Banking Act in said paragraph.

The Federal Reserve Act, referred to in the text, is act Dec. 23, 1913, ch. 6, 38 Stat. 251. For classification of this Act to the Code, see Distribution note set out under section 226 of this title.

The "National Banking Act", referred to in the text, probably means the National Bank Act. See section 38 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, added last paragraph.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5154 is derived from act June 3, 1864, ch. 106, § 44, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Conversion of gold banks into currency banks, see section 153 of this title.

Conversion of national banks into state banks, see sections 214 to 214c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 153 of this title.

§ 36. Branch banks

The conditions upon which a national banking association may retain or establish and operate a branch or branches are the following:

(a) A national banking association may retain and operate such branch or branches as it may have had in lawful operation on February 25, 1927, and any national banking association which continuously maintained and operated not more than one branch for a period of more than twenty-five years immediately preceding February 25, 1927, may continue to maintain and operate such branch.

(b)(1) A national bank resulting from the conversion of a State bank may retain and operate as a branch any office which was a branch of the State bank immediately prior to conversion if such office—

(A) might be established under subsection (c) of this section as a new branch of the resulting national bank, and is approved by the Comptroller of the Currency for continued operation as a branch of the resulting national bank;

(B) was a branch of any bank on February 25, 1927; or

(C) is approved by the Comptroller of the Currency for continued operation as a branch of the resulting national bank.

The Comptroller of the Currency may not grant approval under clause (C) of this paragraph if a State bank (in a situation identical to that of the national bank) resulting from the conversion of a national bank would be prohibited by the law of such State from retaining and operating as a branch an identically situated office which was a branch of the national bank immediately prior to conversion.

(2) A national bank (referred to in this paragraph as the "resulting bank"), resulting from the consolidation of a national bank (referred to in this paragraph as the "national bank") under whose charter the consolidation is effected with another bank or banks, may retain and operate as a branch any office which, immediately prior to such consolidation, was in operation as—

(A) a main office or branch office of any bank (other than the national bank) participating in the consolidation if, under subsection (c) of this section, it might be established as a new branch of the resulting bank, and if the Comptroller of the Currency approves of its continued operation after the consolidation;

(B) a branch of any bank participating in the consolidation, and which, on February 25, 1927, was in operation as a branch of any bank; or

(C) a branch of the national bank and which, on February 25, 1927, was not in operation as a branch of any bank, if the Comptroller of the Currency approves of its continued operation after the consolidation.

The Comptroller of the Currency may not grant approval under clause (C) of this paragraph if a State bank (in a situation identical to that of the resulting national bank) resulting

from the consolidation into a State bank of another bank or banks would be prohibited by the law of such State from retaining and operating as a branch an identically situated office which was a branch of the State bank immediately prior to consolidation.

(3) As used in this subsection, the term "consolidation" includes a merger.

(c) A national banking association may, with the approval of the Comptroller of the Currency, establish and operate new branches: (1) Within the limits of the city, town or village in which said association is situated, if such establishment and operation are at the time expressly authorized to State banks by the law of the State in question; and (2) at any point within the State in which said association is situated, if such establishment and operation are at the time authorized to State banks by the statute law of the State in question by language specifically granting such authority affirmatively and not merely by implication or recognition, and subject to the restrictions as to location imposed by the law of the State on State banks. In any State in which State banks are permitted by statute law to maintain branches within county or greater limits, if no bank is located and doing business in the place where the proposed agency is to be located, any national banking association situated in such State may, with the approval of the Comptroller of the Currency, establish and operate, without regard to the capital requirements of this section, a seasonal agency in any resort community within the limits of the county in which the main office of such association is located, for the purpose of receiving and paying out deposits, issuing and cashing checks and drafts, and doing business incident thereto: *Provided,* That any permit issued under this sentence shall be revoked upon the opening of a State or national bank in such community. Except as provided in the immediately preceding sentence, no such association shall establish a branch outside of the city, town, or village in which it is situated unless it has a combined capital stock and surplus equal to the combined amount of capital stock and surplus, if any, required by the law of the State in which such association is situated for the establishment of such branches by State banks, or, if the law of such State requires only a minimum capital stock for the establishment of such branches by State banks, unless such association has not less than an equal amount of capital stock.

(d) The aggregate capital of every national banking association and its branches shall at no time be less than the aggregate minimum capital required by law for the establishment of an equal number of national banking associations situated in the various places where such association and its branches are situated.

(e) No branch of any national banking association shall be established or moved from one location to another without first obtaining the consent and approval of the Comptroller of the Currency.

(f) The term "branch" as used in this section shall be held to include any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received, or checks paid, or money lent.

(g) This section shall not be construed to amend or repeal section 25 of the Federal Reserve Act, as amended [12 U.S.C. 601 et seq.], authorizing the establishment by national banking associations of branches in foreign countries, or dependencies, or insular possessions of the United States.

(h) The words "State bank," "State banks," "bank," or "banks," as used in this section, shall be held to include trust companies, savings banks, or other such corporations or institutions carrying on the banking business under the authority of State laws.

(R.S. § 5155; Feb. 25, 1927, ch. 191, § 7, 44 Stat. 1228; June 16, 1933, ch. 89, § 23, 48 Stat. 189, 190; Aug. 23, 1935, ch. 614, § 305, 49 Stat. 708; July 15, 1952, ch. 753, § 2(b), 66 Stat. 633; Sept. 28, 1962, Pub. L. 87-721, 76 Stat. 667.)

REFERENCES IN TEXT

Section 25 of the Federal Reserve Act, as amended, referred to in subsec. (g), is classified to subchapter I [§ 601 et seq.] of chapter 6 of this title.

AMENDMENTS

1962—Subsec. (b). Pub. L. 87-721 substituted provisions permitting a national bank resulting from the conversion of a State bank to retain and operate as a branch any office which was a branch of the State bank immediately prior to conversion if such office might be established as a new branch of the resulting national bank, and is approved by the Comptroller for continued operation as a branch of the resulting bank, or any office which was a branch of any bank on Feb. 25, 1927, or any office which is approved by the Comptroller for continued operation as a branch, and a national bank resulting from consolidation of a national bank under whose charter the consolidation is effected with another bank or banks to retain and operate any office which, immediately prior to consolidation, was in operation as a main office or branch office of any bank (other than the national bank) participating in the consolidation if it might be established as a new branch of the resulting bank, and if the Comptroller approves of its continued operation, or was in operation as a branch of any bank participating in the consolidation and which, on Feb. 25, 1927, was in operation as a branch of any bank, or was in operation as a branch of the national bank and which, on Feb. 25, 1927, was not in operation as a branch of any bank, if the Comptroller approves of its continued operation, for provisions which permitted State banks converted into or consolidated with national banking associations after Feb. 25, 1927, or two or more national banking associations which are consolidated, to retain and operate only those branches which may have been in lawful operation on Feb. 25, 1927, and inserted provisions prohibiting the Comptroller from granting approval under clauses (1)(C) and (2)(C) if a State bank resulting from the conversion or consolidation would be prohibited by law of the State from retaining and operating as a branch an identically situated office which was a branch of the national bank or State bank immediately prior to the conversion or consolidation.

1952—Subsec. (c). Act July 15, 1952, eliminated the minimum capital requirement for the establishment of branches by national banks.

1935—Subsec. (c). Act Aug. 23, 1935, inserted the second sentence and at the beginning of the last sentence the words "Except as provided in the immediately preceding sentence."

1933—Subsecs. (c), (d). Act June 16, 1963, amended subsecs. (c) and (d).

1927—Act Feb. 25, 1927, substituted provisions set out above except those parts subsequently amended.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5155 is derived from act Mar. 3, 1865, ch. 78, § 7, 13 Stat. 484.

CROSS REFERENCES

Conversion of national banks into state banks, see sections 214 to 214c of this title.
Place of business, see section 81 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 81 of this title.

§ 37. Associations governed by chapter

The provisions of this chapter, which are expressed without restrictive words, as applying to "national banking associations," or to "associations," apply to all associations organized to carry on the business of banking under any Act of Congress.

(R.S. § 5157.)

REFERENCES IN TEXT

In the original, "this chapter" reads, "chapters two, three and four of this title," meaning chapters two, three, and four of title LXII of the Revised Statutes. The chapters were incorporated into the Code as sections 26 to 28, 37, 55, 56, 60, 62, 81 to 89, 91, 93, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 163, 164, 168 to 175, 181 to 186, 192 to 196, 481 to 485, 501, 541, 547, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure.

CROSS REFERENCES

Federal Home Loan Bank, see section 1421 et seq. of this title.
Federal Reserve System, see section 221 et seq. of this title.

§ 38. The National Bank Act

The Act entitled "An Act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June 3, 1864, shall be known as "The National Bank Act."

(June 20, 1874, ch. 343, § 1, 18 Stat. 123.)

REFERENCES IN TEXT

The National Bank Act, act June 3, 1864, ch. 106, 13 Stat. 99, referred to in the text, was incorporated into the Revised Statutes of 1878 and thence into the Code as sections 1 to 4, 8, 11 to 14, 21, 22 to 24, 26 to 29, 35, 39, 51, 52, 53, 54 [Repealed], 56, 57, 59 to 62, 63 [Repealed], 66, 71, 72 to 76, 81 to 91, 93, 94, 101a, 102, 104, 107, 109, 110, 123, 124, 131 to 138, 141 to 144, 161, 168 to 175, 181 to 183, 185, 186, 192 to 196, 481 to 485, 541, and 548 of this title, section 197 of Title 19, Customs Duties, and section 543 of Title 31, Money and Finance. See, also, sections 8, 333, 334, 471, 472, 656, and 1005 of Title 18, Crimes and Criminal Procedure; 507, 1348, 1394 and 1733 of Title 28, Judiciary and Judicial Procedure; and 462 of Title 31, Money and Finance.

§ 39. Reservation of rights of associations organized under Act of 1863

Nothing in this chapter shall affect any appointments made, acts done, or proceedings had or commenced prior to the 3d day of June 1864, in or toward the organization of any national banking association under the Act of February 25, 1863; but all associations which, on the 3d day of June 1864, were organized or commenced to be organized under that Act, shall enjoy all the rights and privileges granted, and be subject to all the duties, liabilities, and restrictions imposed by this chapter, notwithstanding all the steps prescribed by this chapter for the organization of associations were not pursued, if such associations were duly organized under that Act.

(R.S. § 5156.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.
Act of February 25, 1863, referred to in text, was act Feb. 25, 1863, ch. 58, 12 Stat. 665, which was the original National Bank Act, and was repealed by act June 3, 1864, ch. 106, § 62, 13 Stat. 118.

PRIOR PROVISION

R.S. § 5156 is derived from act June 3, 1864, ch. 106, § 62, 13 Stat. 118, which was the National Bank Act. See section 38 of this title.

§ 40. Virgin Islands; extension of National Bank Act

The National Bank Act, and all other Acts of Congress relating to national banks, shall, insofar as not locally inapplicable on and after July 19, 1932, apply to the Virgin Islands of the United States.

(July 19, 1932, ch. 508, 47 Stat. 703.)

REFERENCES IN TEXT

For classification of the National Bank Act, referred to in the catchline and text, see References in Text note set out under section 38 of this title.

§ 41. Guam; extension of National Bank Act

The National Bank Act, and all other Acts of Congress relating to national banks, shall, insofar as not locally inapplicable on and after August 1, 1956, apply to Guam.

(Aug. 1, 1956, ch. 852, § 2, 70 Stat. 908.)

REFERENCES IN TEXT

For classification of the National Bank Act, referred to in the catchline and text, see References in Text note set out under section 38 of this title.

§ 42. Territorial application

The provisions of all Acts of Congress relating to national banks shall apply in the several States, the District of Columbia, the several Territories and possessions of the United States, and the Commonwealth of Puerto Rico.

(Pub. L. 86-230, § 14, Sept. 8, 1959, 73 Stat. 458.)

CODIFICATION

Section is also set out in D.C. Code, § 47-1710.

SUBCHAPTER II—CAPITAL, STOCK, AND STOCKHOLDERS

§ 51. Requisite of capital and surplus

After this section as amended takes effect no national banking association shall be organized with a less capital than $100,000, except that

such associations with a capital of not less than $50,000 may be organized in any place the population of which does not exceed six thousand inhabitants. No such association shall be organized in a city the population of which exceeds fifty thousand persons with a capital of less than $200,000, except that in the outlying districts of such a city where the State laws permit the organization of State banks with a capital of $100,000 or less, national banking associations now organized or hereafter organized may, with the approval of the Comptroller of the Currency, have a capital of not less than $100,000. No such association shall hereafter be authorized to commence the business of banking until it shall have a paid-in surplus equal to 20 per centum of its capital: *Provided,* That the Comptroller of the Currency may waive this requirement as to a State bank converting into a national banking association, but each such State bank which is converted into a national banking association shall, before the declaration of a dividend on its shares of common stock, carry not less than one-half part of its net profits of the preceding half year to its surplus fund until it shall have a surplus equal to 20 per centum of its capital: *Provided,* That for the purposes of this section any amounts paid into a fund for the retirement of any preferred stock of any such converted State bank out of its net earnings for such half-year period shall be deemed to be an addition to its surplus fund if, upon the retirement of such preferred stock, the amount so paid into such retirement fund for such period may then properly be carried to surplus. In any such case the converted State bank shall be obligated to transfer to surplus the amount so paid into such retirement fund for such period on account of the preferred stock as such stock is retired.

(R.S. § 5138; Mar. 14, 1900, ch. 41, § 10, 31 Stat. 48; Feb. 25, 1927, ch. 191, § 4, 44 Stat. 1227; June 16, 1933, ch. 89, § 17(a), 48 Stat. 185; Aug. 23, 1935, ch. 614, § 309, 49 Stat. 709.)

AMENDMENTS

1935—Act Aug. 23, 1935, added last two sentences.

1933—Act June 16, 1933, inserted in first sentence "After this section as amended takes effect," and omitted therefrom exception clause permitting organization of banks with a capital of not less than $25,000 in places of not more than 3,000 inhabitants.

1927—Act Feb. 25, 1927, added exception clause in second sentence.

EFFECTIVE DATE OF 1933 AMENDMENT

Words "After this section as amended takes effect" are from amendment of June 16, 1933, which took effect on June 16, 1933.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5138 is derived from act June 3, 1864, ch. 106, § 7, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1821 of this title; title 31 sections 313, 455.

§ 51a. Preferred stock; issuance authorized

Notwithstanding any other provision of law any national banking association may, with the approval of the Comptroller of the Currency and by vote of shareholders owning a majority of the stock of such association, upon not less than five days' notice given by registered mail or by certified mail pursuant to action taken by its board of directors, issue preferred stock of one or more classes, in such amount and with such par value as shall be approved by said Comptroller, and make such amendments to its articles of association as may be necessary for this purpose; but, in the case of any newly organized national banking association which has not yet issued common stock, the requirement of notice to and vote of shareholders shall not apply. No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in and notice thereof, duly acknowledged before a notary public by the president, vice president, or cashier of said association, has been transmitted to the Comptroller of the Currency and his certificate obtained specifying the amount of such issue of preferred stock and his approval thereof and that the amount has been duly paid in as a part of the capital of such association; which certificate shall be deemed to be conclusive evidence that such preferred stock has been duly and validly issued.

(Mar. 9, 1933, ch. 1, title III, § 301, 48 Stat. 5; June 15, 1933, ch. 79, 48 Stat. 147; Aug. 23, 1935, ch. 614, § 336, 49 Stat. 720; June 11, 1960, Pub. L. 86-507, § 1(9), 74 Stat. 200.)

AMENDMENTS

1960—Pub. L. 86-507 inserted "or by certified mail" following "registered mail".

1935—Act Aug. 23, 1935, added to the last sentence all text in second sentence following "shall be paid in".

1933—Act June 15, 1933, struck out all of former section and inserted a new section which incorporated all former provisions and inserted "of one or more classes," in first sentence.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Right to amend, separability of provisions, and ratification of acts done under this section, see sections 212 and 213 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51c, 212, 213 of this title.

§ 51b. Dividends, voting, and retirement of preferred stock; individual liability

(a) Notwithstanding any other provision of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise, the holders of such preferred stock shall be entitled to receive such cumulative dividends

at a rate not exceeding 6 per centum per annum and shall have such voting and conversion rights and such control of management, and such stock shall be subject to retirement in such manner and upon such conditions, as may be provided in the articles of association with the approval of the Comptroller of the Currency. The holders of such preferred stock shall not be held individually responsible as such holders for any debts, contracts, or engagements of such association, and shall not be liable for assessments to restore impairments in the capital of such association as now provided by law with reference to holders of common stock.

(b) No dividends shall be declared or paid on common stock until the cumulative dividends on the preferred stock shall have been paid in full; and, if the association is placed in voluntary liquidation or a conservator or a receiver is appointed therefor, no payments shall be made to the holders of the common stock until the holders of the preferred stock shall have been paid in full the par value of such stock plus all accumulated dividends.

(Mar. 9, 1933, ch. *, title III, § 302, 48 Stat. 5; June 15, 1933, ch. 79, 48 Stat. 148.)

AMENDMENTS

1933—Subsec. (a). Act June 15, 1933, struck out former subsec. (a) and inserted a new subsec. (a), which incorporated all former provisions and inserted "Notwithstanding any other provision of law, whether relating to restriction upon the payment of dividends upon capital stock or otherwise" and "and conversion rights," in first sentence.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Right to amend, separability of provisions, and ratification of acts done under this section, see sections 212 and 213 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51c, 62, 212, 213 of this title.

§ 51b-1. Consideration of preferred stock in determining impairment of capital; dividends; retirement

If any part of the capital of a national bank, State member bank, or bank applying for membership in the Federal Reserve System consists of preferred stock, the determination of whether or not the capital of such bank is impaired and the amount of such impairment shall be based upon the par value of its stock even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the par value of such preferred stock. If any such bank or trust company shall have outstanding any capital notes or debentures of the type which the Reconstruction Finance Corporation is authorized to purchase pursuant to the provisions of section 51d of this title, the capital of such bank may be deemed to be unimpaired if the sound value of its assets is not less than its total liabilities, including capital stock, but excluding such capital notes or debentures and any obligations of the bank expressly subordinated thereto. Notwithstanding any other provision of law, the holders of preferred stock issued by a national banking association pursuant to the provisions of the Emergency Banking and Bank Conservation Act, approved March 9, 1933, as amended, shall be entitled to receive such cumulative dividends at a rate not exceeding six per centum per annum on the purchase price received by the association for such stock and, in the event of the retirement of such stock, to receive such retirement price, not in excess of such purchase price plus all accumulated dividends, as may be provided in the articles of association with the approval of the Comptroller of the Currency. If the association is placed in voluntary liquidation, or if a conservator or a receiver is appointed therefor, no payment shall be made to the holders of common stock until the holders of preferred stock shall have been paid in full such amount as may be provided in the articles of association with the approval of the Comptroller of the Currency, not in excess of such purchase price of such preferred stock plus all accumulated dividends.

(Aug. 23, 1935, ch. 614, § 345, 49 Stat. 722.)

REFERENCES IN TEXT

Section "51d of this title", referred to in the text, which was section 304 of the Emergency Banking and Bank Conservation Act, approved March 9, 1933, ch. 1, 48 Stat. 6, as amended, and which authorized the Reconstruction Finance Corporation, upon the request of the Secretary of the Treasury approved by the President, to purchase, or to make loans upon, the capital stock of any bank or trust company requiring funds for capital purposes in connection with its organization or reorganization, and which made provision for the purchase of the capital notes of banks organized in States which subject holders of preferred stock to double liability and for the sale of any stock or notes purchased under such authority, was repealed by act June 30, 1947, ch. 166, title II, § 206(b), (o), 61 Stat. 208. However, according to the information received from the Department of the Treasury, the second sentence of this section is not obsolete even though it contains such obsolete reference to former section 51d of this title, and even though, under 1957 Reorg. Plan No. 1, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, the Reconstruction Finance Corporation was abolished, for many banks have outstanding debentures which they obtained pursuant to the provisions of former section 51d, and which they are not required to redeem; and their benefits or entitlements conferred by the second sentence of this section will remain until the debentures are redeemed.

The Emergency Banking and Bank Conservation Act, approved March 9, 1933, as amended, referred to in text, is act Mar. 9, 1933, ch. 1, 48 Stat. 1, which is classified to sections 51a, 51b, 51c, former section 51d, sections 95 to 95b, 201 to 211, 248, 347b, 347c, former sections 347d, 445 of this title and to section 5 of title 50 App., War and National Defense.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 51c. "Common stock," "capital," and "capital stock" defined

The term "common stock" as used in sections 51a, 51b, 51c, and 51d of this title means stock of national banking associations other than preferred stock issued under the provisions of said sections. The term "capital" as used in provisions of law relating to the capital of national banking associations shall mean the amount of unimpaired common stock plus the amount of preferred stock outstanding and unimpaired; and the term "capital stock", as used in sections 101, 177, and 178 of this title, shall mean only the amount of common stock outstanding.

(Mar. 9, 1933, ch. 1, title III, § 303, 48 Stat. 5.)

REFERENCES IN TEXT

Section 51d of this title, referred to in the text, was repealed by act June 30, 1947, ch. 166, title II, § 206 (b), (*o*), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks, see note under section 51b-1 of this title.

CROSS REFERENCES

Right to amend, separability of provisions, and ratification of acts done under this section, see sections 212 and 213 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 212, 213 of this title.

§§ 51d to 51f. Repealed. June 30, 1947, ch. 166, title II, § 206(b), (*o*), 61 Stat. 208

Section 51d, acts Mar. 9, 1933, ch. 1, title III, § 304, 48 Stat. 6; Mar. 24, 1933, ch. 8, § 2, 48 Stat. 21; Mar. 20, 1936, ch. 160, § 1, 49 Stat. 1185; June 25, 1940, ch. 427, § 1, 54 Stat. 572, related to subscription for and sale of preferred stock in banks by the Reconstruction Finance Corporation.

Sections 51e and 51f, act Mar. 20, 1936, ch. 160, 49 Stat. 1185, related to rate of interest on loans and separability provisions.

§ 52. Par value and incidents of stock; transfer of shares

The capital stock of each association shall be divided into shares of $100 each, or into shares of such less amount as may be provided in the articles of association, and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association. Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired.

Certificates issued after August 23, 1935, representing shares of stock of the association shall state (1) the name and location of the association, (2) the name of the holder of record of the stock represented thereby, (3) the number and class of shares which the certificate represents, and (4) if the association shall issue stock of more than one class, the respective rights, preferences, privileges, voting rights, powers, restrictions, limitations, and qualifications of each class of stock issued shall be stated in full or in summary upon the front or back of the certificates or shall be incorporated by a reference to the articles of association set forth on the front of the certificates. Every certificate shall be signed by the president and the cashier of the association, or by such other officers as the bylaws of the association shall provide, and shall be sealed with the seal of the association.

After August 23, 1935, no certificate evidencing the stock of any such association shall bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934, in holding the bank premises of such association, nor shall the ownership, sale, or transfer of any certificate representing the stock of any such association be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934 in holding the bank premises of such association: *Provided,* That this section shall not operate to prevent the ownership, sale, or transfer of stock of any other corporation being conditioned upon the ownership, sale, or transfer of a certificate representing stock of a national banking association.

(R.S. § 5139; Feb. 25, 1927, ch. 191, § 16, 44 Stat. 1233; June 16, 1933, ch. 89, § 18, 48 Stat. 186; Aug. 23, 1935, ch. 614, §§ 310(a), 335, 49 Stat. 710, 720.)

AMENDMENTS

1935—Act Aug. 23, 1935, § 335, added second par.

Act Aug. 23, 1935, § 310(a), among other changes in last par., added the proviso.

1933—Act June 16, 1933, added last par.

1927—Act Feb. 25, 1927, inserted in first sentence "or into shares of such less amount as may be provided in the articles of association."

PRIOR PROVISIONS

R.S. § 5139 is derived from act June 3, 1864, ch. 106, § 12, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

§ 53. When capital stock paid in

All of the capital stock of every national banking association shall be paid in before it shall be authorized to commence business.

(R.S. § 5140; Pub. L. 86-230, § 4, Sept. 8, 1959, 73 Stat. 457.)

AMENDMENTS

1959—Pub. L. 86-230 substituted requirement that all the capital stock of a national bank must be paid in before it commences business for permissive authority to be open for business upon payment of 50 per centum of the capital stock and installment payment of the remaining 50 per centum.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5140 is derived from act June 3, 1864, ch. 106, § 14, 13 Stat. 103, which was the National Bank Act. See section 38 of this title.

§ 54. Repealed. Pub. L. 86-230, § 5, Sept. 8, 1959, 73 Stat. 457

Section, R.S. § 5141, related to failure to pay installments, remedy and effect if reduction of capital resulted.

§ 55. Enforcing payment of deficiency in capital stock; assessments; liquidation; receivership

Every association which shall have failed to pay up its capital stock, as required by law, and every association whose capital stock shall have become impaired by losses or otherwise, shall, within three months after receiving notice thereof from the Comptroller of the Currency, pay the deficiency in the capital stock, by assessment upon the shareholders pro rata for the amount of capital stock held by each; and the Treasurer of the United States shall withhold the interest upon all bonds held by him in trust for any such association, upon notification from the Comptroller of the Currency, until otherwise notified by him. If any such association shall fail to pay up its capital stock, and shall refuse to go into liquidation, as provided by law, for three months after receiving notice from the comptroller, a receiver may be appointed to close up the business of the association, according to the provisions of section 192 of this title. *And provided,* That if any shareholder or shareholders of such bank shall neglect or refuse, after three months' notice to pay the assessment, as provided in this section, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such shareholder or shareholders to be sold at public auction (after thirty days' notice shall be given by posting such notice of sale in the office of the bank, and by publishing such notice in a newspaper of the city or town in which the bank is located, or in a newspaper published nearest thereto), to make good the deficiency, and the balance, if any, shall be returned to such delinquent shareholder or shareholders.

(R.S. § 5205; June 30, 1876, ch. 156, § 4, 19 Stat. 64.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

PRIOR PROVISIONS

R.S. § 5205 is derived from act Mar. 3, 1873, ch. 269, § 1, 17 Stat. 603.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 197 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

§ 56. Prohibition on withdrawal of capital; unearned dividends

No association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it continues its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. All debts due to any associations, on which interest is past due and unpaid for a period of six months, unless the same are well secured, and in process of collection, shall be considered bad debts within the meaning of this section. But nothing in this section shall prevent the reduction of the capital stock of the association under section 59 of this title.

(R.S. § 5204.)

PRIOR PROVISIONS

R.S. § 5204 is derived from act June 3, 1864, ch. 106, § 38, 13 Stat. 110, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 324 of this title.

§ 57. Increase of capital by provision in articles of association

Any national banking association may, with the approval of the Comptroller of the Currency, and by a vote of shareholders owning two-thirds of the stock of such associations, increase its capital stock to any sum approved by the said comptroller, but no increase in capital shall be valid until the whole amount of such increase is paid in and notice thereof, duly acknowledged before a notary public by the president, vice president, or cashier of said association, has been transmitted to the Comptroller of the Currency and his certificate obtained specifying the amount of such increase in capital stock and his approval thereof, and that it has been duly paid in as part of the capital of such association: *Provided, however,* That a national banking association may, with the approval of the Comptroller of the Currency, and by the vote of shareholders owning two-thirds of the stock of such association, increase its capital stock by the declaration of a stock dividend, provided that the surplus of said association, after the approval of the increase, shall be at least equal to 20 per centum of the capital stock as increased. Such increase shall not be effective until a certificate certifying to such declaration of dividend, signed by the president, vice president, or cashier of said association and duly acknowledged before a notary public, shall have been forwarded to the Comptroller of the Currency and his certificate obtained specifying the amount of such increase of capital stock by stock dividend, and his approval thereof.

(R.S. § 5142; Feb. 25, 1927, ch. 191, § 5, 44 Stat. 1227.)

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AMENDMENTS

1927—Act Feb. 25, 1927, among other changes, added proviso.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5142 is derived from act June 3, 1864, ch. 106, § 13, 13 Stat. 103, which was the National Bank Act. See section 38 of this title.

§ 58. Repealed. Pub. L. 86–230, § 6, Sept. 8, 1959, 73 Stat. 457

Section, act May 1, 1886, ch. 73, § 1, 24 Stat. 18, related to increase of capital by vote of shareholders and is now covered by section 57 of this title.

§ 59. Reduction of capital by vote of shareholders

Any association formed under this chapter may, by the vote of shareholders owning two-thirds of its capital stock, reduce its capital to any sum not below the amount required by this chapter to authorize the formation of associations; but no such reduction shall be allowable which will reduce the capital of the association below the amount required for its outstanding circulation, nor shall any reduction be made until the amount of the proposed reduction has been reported to the Comptroller of the Currency and such reduction has been approved by said Comptroller of the Currency and no shareholder shall be entitled to any distribution of cash or other assets by reason of any reduction of the common capital of any association unless such distribution shall have been approved by the Comptroller of the Currency and by the affirmative vote of at least two-thirds of the shares of each class of stock outstanding, voting as classes.

(R.S. § 5143; Dec. 23, 1913, ch. 6, § 28, 38 Stat. 274; Aug. 23, 1935, ch. 614, § 334, 49 Stat. 720.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, substituted "and no shareholder shall be entitled to any distribution of cash or other assets by reason of any reduction of the common capital of any association unless such distribution shall have been approved by the Comptroller of the Currency and by the affirmative vote of at least two-thirds of the shares of each class of stock outstanding, voting as classes" for "and by the Federal Reserve Board or by the organization committee pending the organization of the Federal Reserve Board".

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5143 is derived from act June 3, 1864, ch. 106, § 13, 13 Stat. 103, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 56 of this title.

§ 60. Dividends

(a) Periodic declaration; surplus fund

The directors of any national banking association may, quarterly, semiannually or annually, declare a dividend of so much of the net profits of the association as they shall judge expedient, except that until the surplus fund of such association shall equal its common capital, no dividends shall be declared unless there has been carried to the surplus fund not less than one-tenth part of the association's net profits of the preceding half year in the case of quarterly or semiannual dividends, or not less than one-tenth part of its net profits of the preceding two consecutive half-year periods in the case of annual dividends: *Provided,* That for the purposes of this section, any amounts paid into a fund for the retirement of any preferred stock of any such association out of its net profits for such period or periods shall be deemed to be additions to its surplus fund if, upon the retirement of such preferred stock, the amounts so paid into such retirement fund may then properly be carried to surplus. In any such case the association shall be obligated to transfer to surplus the amounts so paid into such retirement fund on account of the preferred stock as such stock is retired.

(b) Approval of Comptroller

The approval of the Comptroller of the Currency shall be required if the total of all dividends declared by such association in any calendar year shall exceed the total of its net profits of that year combined with its retained net profits of the preceding two years, less any required transfers to surplus or a fund for the retirement of any preferred stock.

(c) Net profits

For the purpose of this section the term "net profits" shall mean the remainder of all earnings from current operations plus actual recoveries on loans and investments and other assets, after deducting from the total thereof all current operating expenses, actual losses, accrued dividends on preferred stock, if any, and all Federal and State taxes.

(R.S. § 5199; Aug. 23, 1935, ch. 614, § 315, 49 Stat. 712; Sept. 8, 1959, Pub. L. 86–230, § 21(a), 73 Stat. 465.)

AMENDMENTS

1959—Pub. L. 86–230 designated existing provisions as subsec. (a), authorized the declaration of dividends, quarterly and annually, when at least one-tenth of the bank's net profits of the preceding half year or of the preceding two consecutive half-year periods has been carried to the surplus fund, respectively, and added subsecs. (b) and (c).

1935—Act Aug. 23, 1935, among other changes, added proviso.

PRIOR PROVISIONS

R.S. § 5199 is derived from act June 3, 1864, ch. 106, § 33, 13 Stat. 109, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Dividends on preferred stock, see section 51b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 324 of this title.

§ 61. Shareholders' voting rights; cumulative and distributive voting; preferred stock; trust shares; proxies, liability restrictions; percentage requirement exclusion of trust shares

In all elections of directors, each shareholder shall have the right to vote the number of shares owned by him for as many persons as there are directors to be elected, or to cumulate such shares and give one candidate as many votes as the number of directors multiplied by the number of his shares shall equal, or to distribute them on the same principle among as many candidates as he shall think fit; and in deciding all other questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him; except that (1) this shall not be construed as limiting the voting rights of holders of preferred stock under the terms and provisions of articles of association, or amendments thereto, adopted pursuant to the provisions of section 51b of this title; (2) in the election of directors, shares of its own stock held by a national bank as sole trustee, whether registered in its own name as such trustee or in the name of its nominee, shall not be voted by the registered owner unless under the terms of the trust the manner in which such shares shall be voted may be determined by a donor or beneficiary of the trust and unless such donor or beneficiary actually directs how such shares shall be voted; and (3) shares of its own stock held by a national bank and one or more persons as trustees may be voted by such other person or persons, as trustees, in the same manner as if he or they were the sole trustee. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or bookkeeper of such bank shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote. Whenever shares of stock cannot be voted by reason of being held by the bank as sole trustee such shares shall be excluded in determining whether matters voted upon by the shareholders were adopted by the requisite percentage of shares.

(R.S. § 5144; June 16, 1933, ch. 89, § 19, 48 Stat. 186; Aug. 23, 1935, ch. 614, § 311, 49 Stat. 710; Sept. 3, 1954, ch. 1263, § 21, 68 Stat. 1234; July 28, 1959, Pub. L. 86-114, § 4, 73 Stat. 264; July 1, 1966, Pub. L. 89-485, § 13(c), 80 Stat. 242.)

AMENDMENTS

1966—Pub. L. 89-485 deleted: clause (4) requirement of a voting permit from the Board for voting shares controlled by a holding company affiliate of a national bank except when voting in favor of voluntary liquidation of an association; second par. definition of control of shares by a holding company affiliate; third par. prescribing procedure for obtaining a voting permit: application to Board, grant or denial of permit in the public interest, factors for consideration, and conditions described in subsecs. (a) to (e) for granting a permit; subsec. (a) requirement of agreement of the holding company affiliate to an examination of the affiliate by bank examiners, reports by such examiners, examination of affiliated banks, and publication of individual or consolidated statements of condition of such banks; subsec. (b) provisions for possession of readily marketable assets other than bank stock and reinvestment of a prescribed amount of net earnings in such assets; subsec. (c) provisions for reserve of assets, use of assets for capital replacement, and situations involving more than one holding company affiliate; subsec. (d) provisions for penalties for false entries; subsec. (e) requirements for disclosure in application of a absence of securities company status and for declaration of dividends out of net earnings; penultimate par. prescribing procedure for revocation of voting permit and prohibiting the use of the bank as a depositary for public moneys of the United States and payment of dividends to the affiliate; and last par. authorization for forfeiture of rights, privileges, and franchises of national banks.

1959—Subsec. (c). Pub. L. 86-114 authorized the Board to designate one of the chain of holding company affiliates which would have to maintain the 12 percent reserve and exempted the other holding company affiliates from the requirement.

1954—Subsec. (d). Act Sept. 3, 1954, substituted "section 1005 of Title 18" for "section 592 of this title".

1935—Act Aug. 23, 1935 amended the first par., the first sentence of the third par., and added "and the provisions of this subsection, instead of subsection (b), shall apply to all holding company affiliates with respect to any shares of bank stock owned or controlled by them as to which there is no statutory liability imposed upon the holders of such bank stock", at the end of subsec. (c).

1933—Act June 16, 1933, inserted provisions for cumulative voting of shares or distribution of votes on a cumulative voting principle, prohibited national banks holding their own shares as sole trustee from voting such shares but permitted such shares to be voted when held by another person or persons as trustees with the bank, denied voting rights to shares controlled by a holding company affiliate of a national bank unless a voting permit was first obtained, provided for application for a voting permit to the Federal Reserve Board, specified conditions for granting the voting permit and procedure for its revocation, and authorized the forfeiture of a National Bank's rights, privileges, and franchises upon such revocation.

PRIOR PROVISIONS

R.S. § 5144 is derived from act June 3, 1864, ch. 106, § 11, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 601.

§ 62. List of shareholders

The president and cashier of every national banking association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under State authority, during business hours of each day in which business may be legally transacted. A copy of such list, verified by the oath of such president or cashier, shall be transmitted to the Comptroller of the Currency within ten days of any demand therefor made by him.

(R.S. § 5210; May 18, 1953, ch. 59, § 1, 67 Stat. 27.)

AMENDMENTS

1953—Act May 18, 1953, changed the requirement for annual transmission of a copy of the shareholders list to the Comptroller of the Currency by authorizing the Comptroller to acquire such copy at any time on 10 days' notice.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

PRIOR PROVISIONS

R.S. § 5210 is derived from act June 3, 1864, ch. 106, § 40, 13 Stat. 111, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

§§ 63, 64. Repealed. Pub. L. 86-230, § 7, Sept. 8, 1959, 73 Stat. 457

Section 63, R.S. § 5151, related to individual liability of shareholders.

Section 64, act Dec. 23, 1913, ch. 6, § 23, 38 Stat. 273, related to transfer of shares as affecting the individual liability of shareholders. Limitation on liability of shareholders, see section 64a of this title.

The status of former section 63 of this title had been doubtful. At different times it had been held to have been repealed, superseded, and superseded only in part by former section 64 of this title which related to the same subject. See *American T. Co.* v. *Grut*, C. C. A. 1935, 80 F. 2d 155; *Miller* v. *Hamner*, C. C. A. 1920, 269 F. 891; and *First Nat. Bank* v. *First Nat. Bank*, D.C. 1926, 14 F. 2d 129.

§ 64a. Individual liability of shareholders; limitation on liability

The additional liability imposed upon shareholders in national banking associations by the provisions of sections 63 and 64 of this title shall not apply with respect to shares in any such association issued after June 16, 1933. Such additional liability shall cease on July 1, 1937, with respect to all shares issued by any association which shall be transacting the business of banking on July 1, 1937: *Provided*, That not less than six months prior to such date, such association shall have caused notice of such prospective termination of liability to be published in a newspaper published in the city, town, or county in which such association is located, and if no newspaper is published in such city, town, or county, then in a newspaper of general circulation therein. If the association fail[1] to give such notice as and when above provided, a termination of such additional liability may thereafter be accomplished as of the date six month[2] subsequent to publication, in the manner above provided. In the case of each association which has not caused notice of such prospective termination of liability to be published prior to May 18, 1953, the Comptroller of the Currency shall cause such notice to be published in the manner provided in this section, and on the date six months subsequent to such publication by the Comptroller of the Currency such additional liability shall cease.

[1] So in original, should be "fails".

[2] So in original, should be "months".

(June 16, 1933, ch. 89, § 22, 48 Stat. 189; Aug. 23, 1935, ch. 614, § 304, 49 Stat. 708; May 18, 1953, ch. 59, § 2, 67 Stat. 27.)

REFERENCES IN TEXT

Sections 63 and 64 of this title, referred to in the text, were repealed by Pub. L. 86-230, § 7, Sept. 8, 1959, 73 Stat. 457.

AMENDMENTS

1953—Act May 18, 1953, provided for termination of the additional liability, referred to in the section, by action of the Comptroller of the Currency with regard to those associations which had not, prior to May 18, 1953, caused notice of termination to be published.

1935—Act Aug. 23, 1935, added second and third sentences.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 65. Repealed. Pub. L. 86-230, § 8, Sept. 8, 1959, 73 Stat. 457

Section, acts June 30, 1876, ch. 156, § 2, 19 Stat. 63; Sept. 3, 1954, ch. 1263, § 22, 68 Stat. 1234, related to enforcement of shareholders' individual liability by creditors on liquidation. Limitation on liability of shareholders, see section 64a of this title.

§ 66. Personal liability of representatives of stockholders

Persons holding stock as executors, administrators, guardians, or trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust funds would be, if living and competent to act and hold the stock in his own name.

(R.S. § 5152.)

PRIOR PROVISIONS

R.S. § 5152 is derived from act June 3, 1864, ch. 106, § 63, 13 Stat. 118, which was the National Bank Act. See section 38 of this title.

§ 67. Individual liability of shareholders; compromises; authority of receiver

Any receiver of a national banking association is authorized, with the approval of the Comptroller of the Currency and upon the order of a court of record of competent jurisdiction, to compromise, either before or after judgment, the individual liability of any shareholder of such association.

(Feb. 25, 1930, ch. 58, 46 Stat. 74.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer to the Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

SUBCHAPTER III—DIRECTORS

§ 71. Election

The affairs of each association shall be managed by not less than five directors, who shall be elected by the shareholders at a meeting to be held at any time before the association is authorized by the Comptroller of the Currency to commence the business of banking; and afterward at meetings to be held on such day of each year as is specified therefor in the bylaws. The directors shall hold office for one year, and until their successors are elected and have qualified.

(R.S. § 5145; Pub. L. 88-232, § 1, Dec. 23, 1963, 77 Stat. 472.)

AMENDMENTS

1963—Pub. L. 88-232 substituted "on such day of each year as is specified therefor in the bylaws" for "on such day in January of each year as is specified therefor in the articles of association".

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5145 is derived from act June 3, 1864, ch. 106, §§ 9, 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

§ 71a. Number of directors; penalties

After one year from June 16, 1933, notwithstanding any other provision of law, the board of directors, board of trustees, or other similar governing body of every national banking association and of every State bank or trust company which is a member of the Federal Reserve System shall consist of not less than five nor more than twenty-five members. If any national banking association violates the provisions of this section and continues such violation after thirty days' notice from the Comptroller of the Currency, the said Comptroller may appoint a receiver or conservator therefor, in accordance with the provisions of existing law. If any State bank or trust company which is a member of the Federal Reserve System violates the provisions of this section and continues such violation after thirty days' notice from the Board of Governors of the Federal Reserve System, it shall be subject to the forfeiture of its membership in the Federal Reserve System in accordance with the provisions of section 327 of this title.

(June 16, 1933, ch. 89, § 31, 48 Stat. 194; June 16, 1934, ch. 546, § 4, 48 Stat. 971; Aug. 23, 1935, ch. 614, §§ 203(a), 306, 49 Stat. 704, 708.)

AMENDMENTS

1935—Act June 16, 1934, as amended by act Aug. 23, 1935, § 306, repealed a former provision of this section relating to stock ownership requirements of directors, trustees, or members of similar governing bodies of any national banking association, or of any State bank or trust company which is a member of the Federal Reserve System.

1934—Act June 16, 1934, repealed a former provision of this section relating to stock ownership requirements of directors, trustees, or members of similar governing bodies of member banks of the Federal Reserve System.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Interlocking directorates of member banks of Federal Reserve System, see section 19 of Title 15, Commerce and Trade.

§ 72. Qualifications

Every director must, during his whole term of service, be a citizen of the United States, and at least two-thirds of the directors must have resided in the State, Territory, or District in which the association is located, or within one hundred miles of the location of the office of the association, for at least one year immediately preceding their election, and must be residents of such State or within one-hundred-mile territory of the location of the association during their continuance in office. Every director must own in his own right shares of the capital stock of the association of which he is a director the aggregate par value of which shall not be less than $1,000, unless the capital of the bank shall not exceed $25,000, in which case he must own in his own right shares of such capital stock the aggregate par value of which shall not be less than $500. Any director who ceases to be the owner of the required number of shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

(R.S. § 5146; Feb. 28, 1905, ch. 1163, 33 Stat. 818; Mar. 1, 1921, ch. 100, 41 Stat. 1199; Feb. 25, 1927, ch. 191, § 17, 44 Stat. 1233; Apr. 27, 1956, ch. 215, 70 Stat. 119.)

AMENDMENTS

1956—Act Apr. 27, 1956, substituted the words "two-thirds", "one hundred" and "one-hundred-mile", for "three-fourths", "fifty" and "fifty-mile", respectively.

1927—Act Feb. 25, 1927, substituted a minimum value of stock ownership for minimum number of shares in both instances.

PRIOR PROVISIONS

R.S. § 5146 is derived from act June 3, 1864, ch. 106, §§ 9, 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Interlocking directorates of member banks of Federal Reserve System, see section 19 of Title 15, Commerce and Trade.

§ 73. Oath

Each director, when appointed or elected, shall take an oath that he will, so far as the

duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate or willingly permit to be violated any of the provisions of this chapter, and that he is the owner in good faith, and in his own right, of the number of shares of stock required by this chapter, subscribed by him, or standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged, as security for any loan or debt. The oath shall be taken before a notary public, properly authorized and commissioned by the State in which he resides, or before any other officer having an official seal and authorized by the State to administer oaths, except that the oath shall not be taken before any such notary public or other officer who is an officer of the director's bank. The oath, subscribed by the director making it, and certified by the notary public or other officer before whom it is taken, shall be immediately transmitted to the Comptroller of the Currency and shall be filed and preserved in his office for a period of ten years.

(R.S. § 5147; Feb. 20, 1925, ch. 274, 43 Stat. 955.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5147 is derived from act June 3, 1864, ch. 106, § 9, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

§ 74. Vacancies

Any vacancy in the board shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election.

(R.S. § 5148.)

PRIOR PROVISIONS

R.S. § 5148 is derived from act June 3, 1864, ch. 106, § 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

§ 75. Legal holiday, annual meeting on; proceedings where no election held on proper day

When the day fixed in the bylaws for the regular annual meeting of the shareholders falls on a legal holiday in the State in which the bank is located, the shareholders meeting shall be held, and the directors elected, on the next following banking day. If, from any cause, an election of directors is not made on the day fixed, or in the event of a legal holiday, on the next following banking day, an election may be held on any subsequent day within sixty days of the day fixed, to be designated by the board of directors, or, if the directors fail to fix the day, by shareholders representing two-thirds of the shares, at least ten days' notice thereof in all cases having been given by first-class mail to the shareholders.

(R.S. § 5149; Pub. L. 86-230, § 9, Sept. 8, 1959, 73 Stat. 457; Pub. L. 88-232, § 2, Dec. 23, 1963, 77 Stat. 472.)

AMENDMENTS

1963—Pub. L. 88-232 substituted "bylaws" for "articles of association".

1959—Pub. L. 86-230 provided that when the day fixed for the regular annual meeting of the shareholders falls on a legal holiday, the meeting shall be held on the next following banking day and authorized election of directors to be held within sixty days of a fixed day upon ten days' notice to the shareholders by first-class mail instead of upon thirty days' notice in newspaper and at a date designated in the articles or bylaws or by the shareholders.

PRIOR PROVISIONS

R.S. § 5149 is derived from act June 3, 1864, ch. 106, § 10, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

§ 76. President of bank as member of board; chairman of board

The president of the bank shall be a member of the board and shall be the chairman thereof, but the board may designate a director in lieu of the president to be chairman of the board, who shall perform such duties as may be designated by the board.

(R.S. § 5150; Feb. 25, 1927, ch. 191, § 6, 44 Stat. 1228.)

AMENDMENTS

1927—Act Feb. 25, 1927, substituted the above provisions for, "One of the directors, to be chosen by the board, shall be president of the board".

PRIOR PROVISIONS

R.S. § 5150 is derived from act June 3, 1864, ch. 106, § 9, 13 Stat. 102, which was the National Bank Act. See section 38 of this title.

§ 77. Repealed. Pub. L. 89-695, title II, § 207, Oct. 16, 1966, 80 Stat. 1055

Section, act June 16, 1933, ch. 89, § 30, 48 Stat. 193, provided authority for removal of directors or officers of national banks, District banks, or State member banks for continued violations of law or for continued unsafe or unsound practices in conducting the business of such banks.

CODIFICATION

Section 401 of Pub. L. 89-695, Oct. 16, 1966, 80 Stat. 1056, which provided for reenactment of this section effective upon expiration of the period ending at the close of June 30, 1972, was repealed by Pub. L. 91-609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811.

CONDITIONS GOVERNING EMPLOYMENT OF PERSONNEL NOT REPEALED, MODIFIED, OR AFFECTED

Nothing contained in section 207 of Pub. L. 89-695 repealing this section to be construed as repealing, modifying, or affecting section 1829 of this title, see section 206 of Pub. L. 89-695, set out as a note under section 1813 of this title.

§ 78. Certain persons excluded from serving as officers, directors or employees of member banks

No officer, director, or employee of any corporation or unincorporated association, no partner or employee of any partnership, and no individual, primarily engaged in the issue, flotation, underwriting, public sale, or distribution, at wholesale or retail, or through syndicate par-

ticipation, of stocks, bonds, or other similar securities, shall serve the same time as an officer, director, or employee of any member bank except in limited classes of cases in which the Board of Governors of the Federal Reserve System may allow such service by general regulations when in the judgment of the said Board it would not unduly influence the investment policies of such member bank or the advice it gives its customers regarding investments.

(June 16, 1933, ch. 89, § 32, 48 Stat. 194; Aug. 23, 1935, ch. 614, § 307, 49 Stat. 709.)

AMENDMENTS

1935—Act Aug. 23, 1935, among other changes, substituted present exception clause in place of provisions relating to issuance of permits in such cases and authorizing revocation of same where required in the public interest.

EFFECTIVE DATE OF 1935 AMENDMENT

Amendment by act Aug. 23, 1935, became effective Jan. 1, 1936.

SUBCHAPTER IV—REGULATION OF THE BANKING BUSINESS; POWERS AND DUTIES OF NATIONAL BANKS

§ 81. Place of business

The general business of each national banking association shall be transacted in the place specified in its organization certificate and in the branch or branches, if any, established or maintained by it in accordance with the provisions of section 36 of this title.

(R.S. § 5190; Feb. 25, 1927, ch. 191, § 8, 44 Stat. 1229.)

AMENDMENTS

1927—Act Feb. 25, 1927, among other changes, inserted "and in the branch or branches, if any, established or maintained by it in accordance with the provisions of section 36 of this title".

PRIOR PROVISIONS

R.S. § 5190 is derived from act June 3, 1864, ch. 106, § 8, 13 Stat. 101, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Change of location of business, see section 30 of this title.

Place of business, specification in organization certificate, see section 22 of this title.

§ 82. Limit on indebtedness incurred by bank

No national banking association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, plus 50 percent of the amount of its unimpaired surplus fund, except on account of demands of the nature following:

First. Notes of circulation.

Second. Moneys deposited with or collected by the association.

Third. Bills of exchange or drafts drawn against money actually on deposit to the credit of the association, or due thereto.

Fourth. Liabilities to the stockholders of the association for dividends and reserve profits.

Fifth. Liabilities incurred under the provisions of the Federal Reserve Act.

Sixth. Liabilities incurred under the provisions of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

Seventh. Liabilities created by the indorsement of accepted bills of exchange payable abroad actually owned by the indorsing bank and discounted at home or abroad.

Eighth. Liabilities incurred under the provisions of sections 1031 to 1033 of this title.

Ninth. Liabilities incurred on account of loans made with the express approval of the Comptroller of the Currency under paragraph (9) of section 84 of this title.

Tenth. Liabilities incurred under the provisions of section 352a of this title.

Eleventh. Liabilities incurred in connection with sales of mortgages, or participations therein, to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.

Twelfth. Liabilities incurred in borowing [1] from the Export-Import Bank of the United States.

(R.S. § 5202; Dec. 23, 1913, ch. 6, § 13, 38 Stat. 264; Sept. 7, 1916, ch. 461, 39 Stat. 753; Apr. 5, 1918, ch. 45, § 20, 40 Stat. 512; Oct. 22, 1919, ch. 79, § 2, 41 Stat. 297; Mar. 4, 1923, ch. 252, title V, § 504, 42 Stat. 1481; Feb. 25, 1927, ch. 191, § 11, 44 Stat. 1231; Jan. 22, 1932, ch. 8, § 5, formerly § 6, 47 Stat. 8, renumbered and amended June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202; May 20, 1933, ch. 35, § 2, 48 Stat. 73; June 19, 1934, ch. 653, § 2, 48 Stat. 1107; Sept. 8, 1959, Pub. L. 86-230, § 10, 73 Stat. 458; Sept. 9, 1959, Pub. L. 86-251, § 2, 73 Stat. 488; July 24, 1970, Pub. L. 91-351, title II, § 201(b), 84 Stat. 451; Jan. 4, 1975, Pub. L. 93-646, § 11, 88 Stat. 2337.)

REFERENCES IN TEXT

The Federal Reserve Act, referred to in the fifth par., is act Dec. 23, 1913, ch. 6, 38 Stat. 251. For classification of this Act to the Code, see Distribution note set out under section 226 of this title.

Federal Deposit Insurance Act, referred to in the sixth par., is classified to chapter 16 (§ 1811 et seq.) of this title.

Sections 1031 to 1033, referred to in the eighth par., were repealed by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624. Section 1031 is now covered by section 2074 of this title.

Section 352a of this title, referred to in the tenth par., was in the original, reference to section 13b of the Federal Reserve Act, which was formerly set out as section 352a of this title, and was repealed, effective one year after Aug. 21, 1958, by section 601 of Pub. L. 85-699, title VI, Aug. 21, 1958, 72 Stat. 697.

AMENDMENTS

1975—Par. Twelfth. Pub. L. 93-646 added par. Twelfth.

1970—Par. Eleventh. Pub. L. 91-351 added par. Eleventh.

1959—Pub. L. 86-251 inserted "plus 50 percent of the amount of its unimpaired surplus fund," following "or otherwise" in the opening par.

Par. Sixth. Pub. L. 86-230 substituted "the Federal Deposit Insurance Act" for "Reconstruction Finance Corporation Act".

1947—Act June 30, 1947, renumbered section 6 to be section 5 of act Jan. 22, 1932, and reenacted the same amendment as was done by act Jan 22, 1932, by substituting the Reconstruction Finance Corporation Act

[1] So in original.

for the War Finance Corporation Act in the sixth paragraph.

1934—Par. Tenth. Act June 19, 1934, added the tenth par.

1933—Par. Ninth. Act May 20, 1933, added the ninth par.

1932—Par. Sixth. Act Jan. 22, 1932, substituted "Reconstruction Finance Corporation Act" for "War Finance Corporation Act".

1927—Par. Eighth. Act Feb. 25, 1927, added the eighth par.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5202 is derived from act June 3, 1864, ch. 106, § 36, 13 Stat. 110, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 98e.

§ 83. Loans on or purchase by bank of own stock

No association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale; or, in default thereof, a receiver may be appointed to close up the business of the association, according to section 192 of this title.

(R.S. § 5201.)

PRIOR PROVISIONS

R.S. § 5201 is derived from act June 3, 1864, ch. 106, § 35, 13 Stat. 110, which was the National Bank Act. See section 38 of this title.

§ 84. Limit of liability of any person to bank

The total obligations to any national banking association of any person, copartnership, association, or corporation shall at no time exceed 10 per centum of the amount of the capital stock of such association actually paid in and unimpaired and 10 per centum of its unimpaired surplus fund. The term "obligations" shall mean the direct liability of the maker or acceptor of paper discounted with or sold to such association and the liability of the indorser, drawer, or guarantor who obtains a loan from or discounts paper with or sells paper under his guaranty to such association and shall include in the case of obligations of a copartnership or association the obligations of the several members thereof and shall include in the case of obligations of a corporation all obligations of all subsidiaries thereof in which such corporation owns or controls a majority interest. Such limitation of 10 per centum shall be subject to the following exceptions:

(1) Obligations in the form of drafts or bills of exchange drawn in good faith against actually existing values shall not be subject under this section to any limitation based upon such capital and surplus.

(2) Obligations arising out of the discount of commercial or business paper actually owned by the person, copartnership, association, or corporation negotiating the same shall not be subject under this section to any limitation based upon such capital and surplus.

(3) Obligations drawn in good faith against actually existing values and secured by goods or commodities in process of shipment shall not be subject under this section to any limitation based upon such capital and surplus.

(4) Obligations as indorser or guarantor of notes, other than commercial or business paper excepted under paragraph (2) of this section, having a maturity of not more than six months, and owned by the person, corporation, association, or copartnership indorsing and negotiating the same, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

(5) Obligations in the form of banker's acceptances of other banks of the kind described in section 372 of this title shall not be subject under this section to any limitation based upon such capital and surplus.

(6) Obligations of any person, copartnership, association or corporation, in the form of notes or drafts secured by shipping documents, warehouse receipts or other such documents transferring or securing title covering readily marketable nonperishable staples when such property is fully covered by insurance, if it is customary to insure such staples, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus when the market value of such staples securing such obligation is not at any time less than 115 per centum of the face amount of such obligation, and to an additional increase of limitation of 5 per centum of such capital and surplus in addition to such 25 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 120 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 30 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 125 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 35 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 130 per centum of the face amount of such additional obligation, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 40 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 135 per centum of the face amount of such additional obliga-

tion, and to a further additional increase of limitation of 5 per centum of such capital and surplus in addition to such 45 per centum of such capital and surplus when the market value of such staples securing such additional obligation is not at any time less than 140 per centum of the face amount of such additional obligation, but this exception shall not apply to obligations of any one person, copartnership, association, or corporation arising from the same transactions and/or secured by the identical staples for more than ten months. Obligations of any person, copartnership, association, or corporation in the form of notes or drafts secured by shipping documents, warehouse receipts, or other such documents transferring or securing title covering refrigerated or frozen readily marketable staples when such property is fully covered by insurance, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus when the market value of such staples securing such obligation is not at any time less than 115 per centum of the face amount of such additional obligation, but this exception shall not apply to obligations of any one person, copartnership, association or corporation arising from the same transactions and/or secured by the identical staples for more than six months.

(7) Obligations of any person, copartnership, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock when the market value of the livestock securing the obligation is not at any time less than 115 per centum of the face amount of the notes covered by such documents shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus. Obligations arising out of the discount by dealers in dairy cattle of paper given in payment for dairy cattle, which bear a full recourse endorsement or unconditional guarantee of the seller and are secured by the cattle being sold, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

(8) Obligations of any person, copartnership, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, shall (except to the extent permitted by rules and regulations prescribed by the Comptroller of the Currency, with the approval of the Secretary of the Treasury) be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

(9) Obligations representing loans to any national banking association or to any banking institution organized under the laws of any State, or to any receiver, conservator, or superintendent of banks, or to any other agent, in charge of the business and property of any such association or banking institution, when such loans are approved by the Comptroller of the Currency, shall not be subject under this section to any limitation based upon such capital and surplus.

(10) Obligations shall not be subject under this section to any limitation based upon such capital and surplus to the extent that such obligations are secured or covered by guaranties, or by commitments or agreements to take over or to purchase, made by any Federal Reserve bank or by the United States or any department, bureau, board, commission, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States: *Provided,* That such guaranties, agreements, or commitments are unconditional and must be performed by payment of cash or its equivalent within sixty days after demand. The Comptroller of the Currency is authorized to define the terms herein used if and when he may deem it necessary.

(11) Obligations of a local public agency (as defined in section 110(h) of the Housing Act of 1949 [42 U.S.C. 1460(h)]) or of a public housing agency (as defined in the United States Housing Act of 1937, as amended [42 U.S.C. 1437 et seq.]) which have a maturity of not more than eighteen months shall not be subject under this section to any limitation, if such obligations are secured by an agreement between the obligor agency and the Secretary of Housing and Urban Development in which the agency agrees to borrow from the Secretary, and the Secretary agrees to lend to the agency, prior to the maturity of such obligations, monies in an amount which (together with any other monies irrevocably committed to the payment of interest on such obligations) will suffice to pay the principal of such obligations with interest to maturity, which monies under the terms of said agreement are required to be used for that purpose.

(12) Obligations insured by the Secretary of Agriculture pursuant to the Bankhead-Jones Farm Tenant Act, as amended, or the Act of August 28, 1937, as amended (relating to the conservation of water resources), or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus.

(13) Obligations as endorser or guarantor of negotiable or nonnegotiable installment consumer paper which carries a full recourse endorsement or unconditional guarantee by the person, copartnership, association, or corporation transferring the same, shall be subject under this section to a limitation of 15 per centum of such capital and surplus in addition to such 10 per centum of such capital and surplus: *Provided, however,* That if the bank's files or the knowledge of its officers of the financial condition of each maker of such obligations is reasonably adequate, and upon certification by an officer of the bank designated for that purpose by the board of directors of the bank, that the responsibility of

each maker of such obligations has been evaluated and the bank is relying primarily upon each such maker for the payment of such obligations, the limitations of this section as to the obligations of each such maker shall be the sole applicable loan limitation: *Provided further,* That such certification shall be in writing and shall be retained as part of the records of such bank.

(14) Obligations of the Student Loan Marketing Association shall not be subject to any limitation based upon such capital and surplus.

(R.S. § 5200; June 22, 1906, ch. 3516, 34 Stat. 451; Sept. 24, 1918, ch. 176, § 6, 40 Stat. 967; Oct. 22, 1919, ch. 79, § 1, 41 Stat. 296; Feb. 25, 1927, ch. 191, § 10, 44 Stat. 1229; May 20, 1933, ch. 35, § 1, 48 Stat. 73; June 16, 1933, ch. 89, § 26(a), 48 Stat. 191; Aug. 23, 1935, ch. 614, § 321(b), 49 Stat. 713; June 11, 1942, ch. 404, § 8, 56 Stat. 356; July 15, 1949, ch. 338, title VI, § 602(b), 63 Stat. 440; July 22, 1937, ch. 517, § 15(a), as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1079, and amended Aug. 25, 1958, Pub. L. 85-748, § 1(c), 72 Stat. 841; Sept. 9, 1959, Pub. L. 86-251, § 3, 73 Stat. 488; Sept. 28, 1962, Pub. L. 87-723, § 4(c)(4), 76 Stat. 672; May 25, 1967, Pub. L. 90-19, § 27(b), 81 Stat. 29; June 23, 1972, Pub. L. 92-318, title I, § 133(c)(2), 86 Stat. 270.)

References in Text

Section 372 of this title, referred to in par. (5), was in the original a reference to "section 13 of the Federal Reserve Act". Provisions of section 13 describing the obligations are classified to section 372 of this title. Other provisions of section 13 are classified to sections 342 to 347, 347c of this title.

The United States Housing Act of 1937, as amended, referred to in par. (11), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, and is classified to chapter 8 (§ 1437 et seq.) of Title 42, The Public Health and Welfare.

The Bankhead-Jones Farm Tenant Act, as amended, referred to in par. (12), is act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which is classified generally to chapter 33 (§ 1000 et seq.) of Title 7, Agriculture. For complete classification of the Act to the Code, see section 1000 of Title 7 and Tables volume.

The Act of August 28, 1937, as amended, referred to in par. (12), refers to act Aug. 28, 1937, ch. 870, 50 Stat. 869, as amended, popularly known as the Water Facilities Act, which was formerly classified to sections 590r to 590x-4 of Title 16, Conservation, was repealed by section 341(a) of Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 318, and is now covered by chapter 50 (§ 1921 et seq.) of Title 7, Agriculture.

Title V of the Housing Act of 1949, referred to in par. (12), is classified to subchapter III [§ 1471 et seq.] of chapter 8A of Title 42, The Public Health and Welfare.

Codification

Part of section 15(a) of act July 22, 1937, as added Aug. 14, 1946, amended first par. of section 371 of this title. See 1946 Amendment Note thereunder. Remainder of section 15(a) of act July 22, 1937, as added by Pub. L. 85-748, amended R.S. § 5200 [this section] by adding par. (12).

Amendments

1972—Par. (14). Pub. L. 92-318 added par. (14).

1967—Par. (11). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator or the Public Housing Administration" and "Secretary" for "Administrator or Administration" wherever appearing, respectively.

1962—Par. (12). Pub. L. 87-723 inserted "or title V of the Housing Act of 1949" before "shall be subject under this section".

1959—Par. (6). Pub. L. 86-251, § 3(a), substituted "secured by" for "secured upon" and added the exception with respect to obligations secured by documents transferring or securing title covering refrigerated or frozen readily marketable staples.

Par. (7). Pub. L. 86-251, § 3(b), added the exception with respect to obligations arising out of the discount by dealers in dairy cattle of paper given in payment for dairy cattle.

Par. (8). Pub. L. 86-251, § 3(c), deleted "in the form of notes" following "corporation".

Par. (13). Pub. L. 86-251, § 3(d) added par. (13).

1958—Par. (12). Pub. L. 85-748 amended section 15(a) of act July 22, 1937, as added by act Aug. 14, 1946, by adding sentence amending R.S. § 5200 by adding par. (12).

1949—Par. (11). Act July 15, 1949, added par (11).

1942—Par. (10). Act June 11, 1942, added par (10).

1935—Par. (8). Act Aug. 23, 1935, inserted "Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States".

1933—Par. (1). Act June 16, 1933, added to the second sentence the matter relating to obligations of a corporation and its subsidiaries.

Par. (9). Act May 20, 1933, added par. (9).

1927—Act Feb. 25, 1927, reenacted section, subdividing it into eight numbered exceptions.

Repeals

Repealing provisions of Consolidated Farmers Home Administration Act of 1961 as not having the effect of repealing the amendment to this section enacted by act July 22, 1937, § 15(a), as added Aug. 14, 1946, see section 341(a) of Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 318, set out as a note under section 1921 of Title 7, Agriculture.

Savings Clause to 1933 Amendment

Section 26(b) of act June 16, 1933, provided: "The amendment made by this section shall not apply to such obligations of subsidiaries held by such association on the date this section takes effect."

Exception as to Transfer of Functions

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

Application to District of Columbia

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 3, 47 Stat. 1567 (D.C. Code, § 26-102).

Definition of Terms

For definition of word "unconditional" as used in par. (10) of this section, see regulation of the Comptroller of Currency issued June 18, 1942, 7 F.R. 4603.

Prior Provisions

R.S. § 5200 is derived from act June 3, 1864, ch. 106, § 29, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

Cross References

Bonds as including notes issued under Victory Liberty Loan Act, see section 753 of Title 31, Money and Finance.

Loans, state member banks as subject to limitations and conditions applicable to national banks under par. (8), see section 248 of this title.

Rediscount of notes, drafts, and bills for member banks; limitation of amount, see section 345 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 82, 248, 345 of this title; title 31 section 753.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-102 of the District of Columbia Code.

§ 85. Rate of interest on loans, discounts and purchases

Any association may take, receive, reserve, and charge on any loan or discount made, or upon any notes, bills of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State, Territory, or District where the bank is located, or at a rate of 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the bank is located, or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, whichever may be the greater, and no more, except that where by the laws of any State a different rate is limited for banks organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under this chapter. When no rate is fixed by the laws of the State, or Territory, or District, the bank may take, receive, reserve, or charge a rate not exceeding 7 per centum, or 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal reserve bank in the Federal reserve district where the bank is located, or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, whichever may be the greater, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run. The maximum amount of interest or discount to be charged at a branch of an association located outside of the States of the United States and the District of Columbia shall be at the rate allowed by the laws of the country, territory, dependency, province, dominion, insular possession, or other political subdivision where the branch is located. And the purchase, discount, or sale of a bona fide bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

(R.S. § 5197; June 16, 1933, ch. 89, § 25, 48 Stat. 191; Aug. 23, 1935, ch. 614, § 314, 49 Stat. 711; Oct. 29, 1974, Pub. L. 93-501, title II, § 201, 88 Stat. 1558.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

AMENDMENTS

1974—Pub. L. 93-501 substituted "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, whichever may be the greater" for "whichever may be the greater" in two places.

1935—Act Aug. 23, 1935, inserted the third sentence.

1933—Act June 16, 1933, authorized interest at the alternative rate of 1% in excess of the discount rate on 90 day commercial paper in effect at the federal reserve bank in the federal reserve district where the bank is located if greater.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment by Pub. L. 93-501 see section 206 of Pub. L. 93-501, set out as a note under section 1831a of this title.

PRIOR PROVISIONS

R.S. § 5197 is derived from act June 3, 1864, ch. 106, § 30, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 86 of this title.

§ 86. Usurious interest; penalty for taking; limitations

The taking, receiving, reserving, or charging a rate of interest greater than is allowed by section 85 of this title, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the association taking or receiving the same: *Provided,* That such action is commenced within two years from the time the usurious transaction occurred.

(R.S. § 5198.)

CODIFICATION

Section is based on R.S. § 5198, less last sentence as added by act Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320 which is classified to section 94 of this title.

PRIOR PROVISIONS

R.S. § 5198 (less last sentence) is derived from act June 3, 1864, ch. 106, § 30, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

One form of action, see rule 2, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 87. Restriction on use by bank of its circulating notes

No association shall, either directly or indirectly, pledge or hypothecate any of its notes of circulation, for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations, or otherwise; nor shall any association use its circulating notes, or any part thereof, in any manner or form, to create or increase its capital stock.

(R.S. § 5203.)

PRIOR PROVISIONS

R.S. § 5203 is derived from act June 3, 1864, ch. 106, § 37, 13 Stat. 110, which was the National Bank Act. See section 38 of this title.

§ 88. Restriction on use by bank of notes of other banks

No association shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, or in any other mode pay or put in circulation, the notes of any bank or banking association which are not, at any such time, receivable, at par, on deposit, and in payment of debts by the association so paying out or circulating such notes; nor shall any association knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

(R.S. § 5206.)

PRIOR PROVISIONS

R.S. § 5206 is derived from act June 3, 1864, ch. 106, § 39, 13 Stat. 111, which was the National Bank Act. See section 38 of this title.

§ 89. Duty of bank to receive circulating notes of other banks in payment of debts

Every national banking association formed or existing under this chapter, shall take and receive at par, for any debt or liability to it, any and all notes or bills issued by any lawfully organized national banking association. But this provision shall not apply to any association organized for the purpose of issuing notes payable in gold.

(R.S. § 5196.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

PRIOR PROVISIONS

R.S. § 5196 is derived from act June 3, 1864, ch. 106, § 32, 13 Stat. 109, which was the National Bank Act, and act July 12, 1870, ch. 252, § 5, 15 Stat. 253. See section 38 of this title.

CROSS REFERENCES

Gold coinage discontinued and existing gold coins withdrawn from circulation, see section 315b of Title 31, Money and Finance.

Provisions for payment of obligations in gold declared against public policy, see section 463 of Title 31, Money and Finance.

§ 90. Depositaries of public moneys and financial agents of Government

All national banking associations, designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government, as may be required of them. The Secretary of the Treasury shall require the associations thus designated to give satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the Government: *Provided*, That the Secretary shall, on or before the 1st of January of each year, make a public statement of the securities required during that year for such deposits. And every association so designated as receiver or depositary of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid into the Government for internal revenue, or for loans or stocks: *Provided*, That the Secretary of the Treasury shall distribute the deposits herein provided for, as far as practicable, equitably between the different States and sections.

Any national banking association may, upon the deposit with it of any funds by any State or political subdivision thereof or any agency or other governmental instrumentality of one or more States or political subdivisions thereof, including any officer, employee, or agent thereof in his official capacity, give security for the safekeeping and prompt payment of the funds so deposited to the same extent and of the same kind as is authorized by the law of the State in which such association is located in the case of other banking institutions in the State.

(R.S. § 5153; Mar. 3, 1901, ch. 871, 31 Stat. 1448; Mar. 4, 1907, ch. 2913, § 3, 34 Stat. 1290; Dec. 23, 1913, ch. 6, § 27, 38 Stat. 274; Aug. 4, 1914, ch. 225, 38 Stat. 682; June 25, 1930, ch. 604, 46 Stat. 809; Aug. 18, 1950, ch. 754, 64 Stat. 463.)

AMENDMENTS

1950—Act Aug. 18, 1950, permitted national banks to accept and give security for deposits of funds made by agencies or governmental instrumentalities or States or political subdivisions thereof and by their officers, employees or agents.

1930—Act June 25, 1930, added last par.

PRIOR PROVISIONS

R.S. § 5153 is derived from act June 3, 1864, ch. 106, § 45, 13 Stat. 113, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 403.

§ 91. Transfers by bank and other acts in contemplation of insolvency

All transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any national banking association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, made with a view to prevent the application of its assets in the manner prescribed by this chapter, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void; and no attachment, injunction, or execution, shall be issued against such association or its property before final judgment in

any suit, action, or proceeding, in any State, county, or municipal court.

(R.S. § 5242.)

REFERENCES IN TEXT

In the original "this chapter" referred to chapter 4 of title LXII of the Revised Statutes. Chapter 4 was incorporated into the Code as sections 91, 93, 131 to 138, 181 to 186, 192 to 196, and 481 to 485 of this title. See, also, section 709 of Title 18, Crimes and Criminal Procedure.

PRIOR PROVISIONS

R.S. § 5242 is derived from act June 3, 1864, ch. 106, § 52, 13 Stat. 115, which was the National Bank Act, and act Mar. 3, 1873, ch. 269, § 2, 17 Stat. 603. See section 38 of this title.

FEDERAL RULES OF CIVIL PROCEDURE

Execution, see rule 69, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 92. Omitted

CODIFICATION

The provisions of this section, which were added to R.S. § 5202 by act Sept. 7, 1916, ch. 461, 39 Stat. 753, were omitted in the amendment of R.S. § 5202 by act Apr. 5, 1918, ch. 45, § 20, 40 Stat. 512, and therefore this section has been omitted from the Code. R.S. § 5202, as amended, is set out as section 82 of this title.

§ 92a. Trust powers

(a) Authority of Comptroller of the Currency

The Comptroller of the Currency shall be authorized and empowered to grant by special permit to national banks applying therefor, when not in contravention of State or local law, the right to act as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State in which the national bank is located.

(b) Grant and exercise of powers deemed not in contravention of State or local law

Whenever the laws of such State authorize or permit the exercise of any or all of the foregoing powers by State banks, trust companies, or other corporations which compete with national banks, the granting to and the exercise of such powers by national banks shall not be deemed to be in contravention of State or local law within the meaning of this section.

(c) Segregation of fiduciary and general assets; separate books and records; access of State banking authorities to reports of examinations, books, records, and assets

National banks exercising any or all of the powers enumerating[1] in this section shall segregate all assets held in any fiduciary capacity from the general assets of the bank and shall keep a separate set of books and records showing in proper detail all transactions engaged in under authority of this section. The State banking authorities may have access to reports of examination made by the Comptroller of the Currency insofar as such reports relate to the trust department of such bank, but nothing in this section shall be construed as authorizing the State banking authorities to examine the books, records, and assets of such bank.

[1] So in original. Probably should be "enumerated".

(d) Prohibited operations; separate investment account; collateral for certain funds used in conduct of business

No national bank shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the bank awaiting investment shall be carried in a separate account and shall not be used by the bank in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Comptroller of the Currency.

(e) Lien and claim upon bank failure

In the event of the failure of such bank the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the bank.

(f) Deposits of securities for protection of private or court trusts; execution of and exemption from bond

Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, national banks so acting shall be required to make similar deposits and securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. National banks in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. National banks shall have power to execute such bond when so required by the laws of the State.

(g) Officials' oath or affidavit

In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such national bank may take the necessary oath or execute the necessary affidavit.

(h) Loans of trust funds to officers and employees prohibited; penalties

It shall be unlawful for any national banking association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than $5,000, or imprisoned not more than five years, or may be both fined and imprisoned, in the discretion of the court.

(i) Considerations determinative of grant or denial of applications; minimum capital and surplus for issuance of permit

In passing upon applications for permission to exercise the powers enumerated in this section, the Comptroller of the Currency may take into consideration the amount of capital and surplus of the applying bank, whether or not such capital and surplus is sufficient under the circumstances of the case, the needs of the

community to be served, and any other facts and circumstances that seem to him proper, and may grant or refuse the application accordingly: *Provided,* That no permit shall be issued to any national banking association having a capital and surplus less than the capital and surplus required by State law of State banks, trust companies, and corporations exercising such powers.

(j) Surrender of authorization; board resolution; Comptroller certification; activities affected; regulations

Any national banking association desiring to surrender its right to exercise the powers granted under this section, in order to relieve itself of the necessity of complying with the requirements of this section, or to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, or for any other purpose, may file with the Comptroller of the Currency a certified copy of a resolution of its board of directors signifying such desire. Upon receipt of such resolution, the Comptroller of the Currency, after satisfying himself that such bank has been relieved in accordance with State law of all duties as trustee, executory,[1] administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics or other fiduciary, under court, private, or other appointments previously accepted under authority of this section, may, in his discretion, issue to such bank a certificate certifying that such bank is no longer authorized to exercise the powers granted by this section. Upon the issuance of such a certificate by the Comptroller of the Currency, such bank (1) shall no longer be subject to the provisions of this section or the regulations of the Comptroller of the Currency made pursuant thereto, (2) shall be entitled to have returned to it any securities which it may have deposited with the State authorities for the protection of private or court trusts, and (3) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section. The Comptroller of the Currency is authorized and empowered to promulgate such regulations as he may deem necessary to enforce compliance with the provisions of this section and the proper exercise of the powers granted therein.

(Pub. L. 87-722, § 1, Sept. 28, 1962, 76 Stat. 668.)

SAVINGS PROVISION

Section 2 of Pub. L. 87-722 provided that: "Nothing contained in this Act [enacting this section, amending sections 581 and 584(a)(2) of Title 26, and repealing section 248(k) of this title] shall be deemed to affect or curtail the right of any national bank to act in fiduciary capacities under a permit granted before the date of enactment of this Act [Sept. 28, 1962] by the Board of Governors of the Federal Reserve System, nor to affect the validity of any transactions entered into at any time by any national bank pursuant to such permit. On and after the date of enactment of this Act [Sept. 28, 1962] the exercise of fiduciary powers by national banks shall be subject to the provisions of this Act and the requirements of regulations issued by the Comptroller of the Currency pursuant to the authority granted by this Act."

[1] So in original. Probably should be "executor".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 80a-2, 80b-2.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-701 of the District of Columbia Code.

§ 93. Violation of provisions of chapter; forfeiture of franchise; personal liability of directors

If the directors of any national banking association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of this chapter, all the rights, privileges, and franchises of the association shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper district or Territorial court of the United States in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved. And in cases of such violation, every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation.

(R.S. § 5239; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

CODIFICATION

Act Mar. 3, 1911, conferred the powers and duties of the former circuit courts upon the district courts.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5239 is derived from act June 3, 1864, ch. 106, § 53, 13 Stat. 116, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Appointment of receiver, see section 191 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 191 of this title.

§ 94. Venue of suits

Suits, actions and proceedings against any association under this chapter may be had in any district or Territorial court of the United States held within the district in which such association may be established, or in any State, county, or municipal court in the county or city in which said association is located having jurisdiction in similar cases.

(R.S. § 5198; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

CODIFICATION

Section is based on last sentence of R.S. § 5198 as added by act Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320. The remaining sentences of R.S. § 5198 are classified to section 86 of this title.

Act Mar. 3, 1911, conferred the powers and duties of the former circuit courts upon the district courts.

PRIOR PROVISIONS

The last sentence of R.S. § 5198, as added by act Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320, appears to have been derived from act June 3, 1864, ch. 106, § 57, 13 Stat. 116, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Jurisdiction and venue in suits against national banks, see sections 1348 and 1394 of Title 28, Judiciary and Judicial Procedure.

§ 94a. Repealed. June 25, 1948, ch. 646, § 39, 62 Stat. 992, eff. Sept. 1, 1948

Section, act July 12, 1882, ch. 290, § 4, 22 Stat. 163, relating to jurisdiction and venue, is now covered by sections 1348 and 1394 of Title 28, Judiciary and Judicial Procedure.

§ 95. Emergency limitations and restrictions on business of members of Federal reserve system

In order to provide for the safer and more effective operation of the national Banking System and the Federal Reserve System, to preserve for the people the full benefits of the currency provided for by the Congress through the national banking system and the Federal reserve system, and to relieve interstate commerce of the burdens and obstructions resulting from the receipt on an unsound or unsafe basis of deposits subject to withdrawal by check, during such emergency period as the President of the United States by proclamation may prescribe, no member bank of the Federal reserve system shall transact any banking business except to such extent and subject to such regulations, limitations and restrictions as may be prescribed by the Secretary of the Treasury, with the approval of the President. Any individual, partnership, corporation, or association, or any director, officer or employee thereof, violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $10,000 or, if a natural person, may, in addition to such fine, be imprisoned for a term not exceeding ten years. Each day that any such violation continues shall be deemed a separate offense.

(Mar. 9, 1933, ch. 1, title I, § 4, 48 Stat. 2.)

BANK HOLIDAY OF 1933

Proclamations Nos. 2039, 2040, and 2070, dated Mar. 6, 1933, Mar. 9, 1933, and Dec. 30, 1933, respectively, related to the temporary suspension of banking transactions beginning Mar. 6, 1933, by all member banks of the Federal Reserve System.

Pursuant to Ex. Ord. No. 6073, dated March 10, 1933, formerly set out as a note under this section, the Secretary of the Treasury by order of March 11, 1933, authorized all Federal reserve banks and nonmember banks and other banking institutions to resume their normal and usual banking functions on March 13, 1933, subject to certain restrictions. See 31 C.F.R. 121.20-121.22. The fifth and sixth paragraphs of Ex. Ord. No. 6073, relating to the removal of gold coin, gold bullion, or gold certificates from the United States by corporations, etc., including banking institutions and authorization of banking institutions to pay out gold coin, gold bullion or gold certificates, were revoked by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, set out as a note under section 95a of this title.

CROSS REFERENCES

Misdemeanor, offense punishable by imprisonment not exceeding one year as, see section 1 of Title 18, Crimes and Criminal Procedure.

Right to amend, separability of provisions, and ratification of acts done under this section, see sections 212 and 213 of this title.

PROC. NO. 2725. EXEMPTION OF MEMBER BANKS OF FEDERAL RESERVE SYSTEM

Proc. No. 2725, Apr. 7, 1947, 12 F.R. 2343, 61 Stat. 1062, provided:

Now, therefore, I, Harry S. Truman, President of the United States of America, acting under and by virtue of the authority vested in me by section 5 (b) of the Trading with the Enemy Act of October 6, 1917, 40 Stat. 415, as amended [section 5(b) of Appendix to Title 50], and section 4 of the act of March 9, 1933, 48 Stat. 2 [this section] and by virtue of all other authority vested in me, do hereby, in the interest of the internal management of the Government, proclaim, order, direct, and declare that the said proclamations of March 6 and March 9, 1933, and Executive order of March 10, 1933, as amended, are further amended to exclude from their scope banking institutions which are members of the Federal Reserve System: *Provided, however,* That no banking institution shall pay out any gold coin, gold bullion, or gold certificates, except as authorized by the Secretary of the Treasury, or allow the withdrawal of any currency for hoarding.

This proclamation shall become effective as of March 15, 1947.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 212, 213 of this title.

§ 95a. Regulation of transactions in foreign exchange of gold and silver; property transfers; vested interests, enforcement and penalties

(1) During the time of war or during any other period of national emergency declared by the President, the President may, through any agency that he may designate, or otherwise, and under such rules and regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(A) investigate, regulate, or prohibit, any transactions in foreign exchange, transfers of credit or payments between, by, through, or to any banking institution, and the importing, exporting, hoarding, melting, or earmarking of gold or silver coin or bullion, currency or securities, and

(B) investigate, regulate, direct and compel, nullify, void, prevent or prohibit, any acquisition holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States; and any property or interest of any foreign country or national thereof shall vest, when, as, and upon the terms, directed by the President, in such agency or person as may be designated from time to time by the President, and upon

such terms and conditions as the President may prescribe such interest or property shall be held, used, administered, liquidated, sold, or otherwise dealt with in the interest of and for the benefit of the United States, and such designated agency or person may perform any and all acts incident to the accomplishment or furtherance of these purposes; and the President shall, in the manner hereinabove provided, require any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, complete information relative to any act or transaction referred to in this section either before, during, or after the completion thereof, or relative to any interest in foreign property, or relative to any property in which any foreign country or any national thereof has or has had any interest, or as may be otherwise necessary to enforce the provisions of this section, and in any case in which a report could be required, the President may, in the manner hereinabove provided, require the production, or if necessary to the national security or defense, the seizure, of any books of account, records, contracts, letters, memoranda, or other papers, in the custody or control of such person; and the President may, in the manner hereinabove provided, take other and further measures not inconsistent herewith for the enforcement of this section.

(2) Any payment, conveyance, transfer, assignment, or delivery of property or interest therein, made to or for the account of the United States, or as otherwise directed, pursuant to this section or any rule, regulation, instruction, or direction issued hereunder shall to the extent thereof be a full acquittance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect to anything done or omitted in good faith in connection with the administration of, or in pursuance of and in reliance on, this section, or any rule, regulation, instruction, or direction issued hereunder.

(3) As used in this section the term "United States" means the United States and any place subject to the jurisdiction thereof: *Provided, however,* That the foregoing shall not be construed as a limitation upon the power of the President, which is conferred, to prescribe from time to time, definitions, not inconsistent with the purposes of this section, for any or all of the terms used in this section. Whoever willfully violates any of the provisions of this section or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this section the term "person" means an individual, partnership, association, or corporation.

(Oct. 6, 1917, ch. 106, § 5(b), 40 Stat. 415; Sept. 24, 1918, ch. 176, § 5, 40 Stat. 966; Mar. 9, 1933, ch. 1, title I, § 2, 48 Stat. 1; May 7, 1940, ch. 185, § 1, 54 Stat. 179; Dec. 18, 1941, ch. 593, title III, § 301, 55 Stat. 839; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 69 Stat. 1352.)

CODIFICATION

Section 5(b) of act Oct. 6, 1917, is part of the Trading with the Enemy Act and is also set out as section 5 (b) of Title 50, Appendix, War and National Defense.

Words "including the Philippine Islands, and the several courts of the Commonwealth of the Philippine Islands shall have jurisdiction in all cases, civil or criminal, arising under this section in the Philippine Islands and concurrent jurisdiction with the district courts of the United States of all cases, civil or criminal, arising upon the high seas" following "to the jurisdiction thereof" in subsec. (3) were omitted upon the authority of 1946 Proc. No. 2695, which granted the Philippine Islands independence, and which was issued pursuant to section 1394 of Title 22. Proc. No. 2695 is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

Provisions relating to the hoarding or melting of gold or silver coin or bullion or currency and to the regulation of transactions in bonds or certificates of indebtedness were added by act Sept. 24, 1918.

AMENDMENTS

1941—Act Dec. 18, 1941, broadened the powers of the President to take, administer, control, use and liquidate foreign-owned property and added a flexibility of control which enabled the President and the agencies designated by him to cope with the problems surrounding alien property, its ownership or control, on the basis of the particular facts in each case.

1940—Act May 7, 1940, included dealings in evidences of indebtedness or ownership of property in which foreign states, nationals or political subdivisions thereof have an interest.

1933—Act Mar. 9, 1933, amended section generally by, among other things, extending the President's power to any time of war or national emergency, by permitting regulations to be issued by any agency designated by the President, by providing for the furnishing under oath of complete information relative to transactions under this section and by placing sanctions on violations to the extent of a $10,000 fine or ten years imprisonment.

DELEGATION OF POWERS

Delegation of President's powers under this section to the Secretary of the Treasury and the Alien Property Custodian; and transfer of Alien Property Custodian's powers to the Attorney General, see Ex. Ord. Nos. 9095 and 9788, set out in notes to section 6 of Title 50, Appendix, War and National Defense.

All powers conferred upon the President by this section were delegated to the Secretary of the Treasury by Memorandum of the President dated Feb. 12, 1942, 7 F.R. 1409.

NON-APPLICABILITY OF NATIONAL EMERGENCIES ACT

Provisions of the National Emergencies Act not applicable to the powers and authorities conferred by this section and actions taken hereunder, see section 1651(a)(1) of Title 50, War and National Defense.

ADMINISTRATION OF EXPORT ADMINISTRATION ACT

For provisions relating to the administration of the Export Administration Act, see Ex. Ord. No. 11533, June 4, 1970, 35 F.R. 8799, set out as a note under section 2403 of Appendix to Title 50, War and National Defense.

REMOVAL OF LIMITATIONS AND RESTRAINTS IN FINANCING EXPORTS

Pub. L. 92-126, § 2, Aug. 17, 1971, 85 Stat. 346, provided that: "In connection with section 2 of Executive Order Number 11387, dated January 1, 1968 [set out below] and any rule, regulation, or guideline established by the Board of Governors of the Federal Reserve System in connection with a voluntary foreign credit restraint program, there shall be no limitation or restraint, or suggestion that there be a limitation or restraint, on the part of any bank or financial institu-

tion in connection with the extension of credit for the purpose of financing exports of the United States."

WORLD WAR II ALIEN PROPERTY CUSTODIAN

Reestablishment and termination of Office of Alien Property Custodian during World War II, see notes under section 6 of Title 50, Appendix, War and National Defense.

DIPLOMATIC PROPERTY OF GERMANY AND JAPAN

Ex. Ord. No. 9760, July 24, 1946, 11 F.R. 7999, set out in notes to section 6 of Title 50 Appendix, War and National Defense, supersedes conflicting provisions of Ex. Ord. No. 8389, set out following this section.

CROSS REFERENCES

Felony, offense punishable by imprisonment for a term exceeding one year as, see section 1 of Title 18, Crimes and Criminal Procedure.

Jurisdiction of courts of Philippine Islands terminated, see section 1382 of Title 22, Foreign Relations and Intercourse.

Provisions governing checks and warrants withheld pursuant to Ex. Ord. No. 8389, adding sections 9 to 12 to Ex. Ord. No. 6560, which was formerly set out under this section, see section 126 of Title 31, Money and Finance.

Right to amend, separability of provisions, and ratification of acts done under this section, see sections 212 and 213 of this title.

EXECUTIVE ORDER NO. 6260

Ex. Ord. No. 6260, Aug. 28, 1933, as amended by Ex. Ord. No. 6359, Oct. 25, 1933; Ex. Ord. No. 6556, Jan. 12, 1934; Ex. Ord. No. 6560, Jan. 15, 1934; Ex. Ord. No. 10896, Nov. 29, 1960, 25 F.R. 12281; Ex. Ord. No. 10905, Jan. 14, 1961, 26 F.R. 321; Ex. Ord. No. 11037, July 20, 1962, 27 F.R. 6967, formerly set out as a note under this section, which related to the hoarding, export, and earmarking of gold coin, bullion, or currency, and transactions in foreign exchange, was revoked by Ex Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, set out as a note under this section.

EX. ORD. NO. 6560. TRANSACTIONS IN FOREIGN EXCHANGE, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

Ex. Ord. No. 6560, Jan. 15, 1934, as amended by Ex. Ord. No. 8389, April 10, 1940, 6 p.m. E. S. T., 5 F.R. 1400; Ex. Ord. No. 8405, May 10, 1940, 7:55 a.m. E. S. T., 5 F.R. 1677; Ex. Ord. No. 8493, July 25, 1940, 5 F.R. 2667, provided:

By virtue of the authority vested in me by section 5 (b) of the act of October 6, 1917 (40 Stat. L., 411) [this section] as amended by section 2 of the act of March 9, 1933, entitled "An Act to provide relief in the existing national emergency in banking and for other purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency continues to exist, and by virtue of said authority and of all other authority vested in me, do hereby prescribe the following regulations for the investigation, regulation, and prohibition of transactions in foreign exchange, transfers of credit between or payments by banking institutions as herein defined, and export of currency or silver coin, by any person within the United States or any place subject to the jurisdiction thereof.

SECTION 1. PROHIBITION AGAINST UNLICENSED TRANSACTIONS

Every transaction in foreign exchange, transfer of credit between any banking institution within the United States and any banking institution outside of the United States (including any principal, agent, home office, branch, or correspondent outside of the United States of a banking institution within the United States), and the export or withdrawal from the United States of any currency or silver coin which is legal tender in the United States, by any person within the United States, is hereby prohibited, except under license therefor issued pursuant to this Executive order: *Provided, however,* That, except as prohibited under regulations prescribed by the Secretary of the Treasury, foreign exchange transactions and transfers of credit may be carried out without a license for (a) normal commercial or business requirements, (b) reasonable traveling and other personal requirements, or (c) the fulfillment of legally enforceable obligations incurred prior to March 9, 1933.

SECTION 2. POSSESSIONS OF THE UNITED STATES

Except as prohibited in regulations prescribed by the Secretary of the Treasury, transfers of credit between banking institutions in the continental United States and banking institutions in other places subject to the jurisdiction of the United States (including principals, agents, home offices, branches, or correspondents in such other places, of banking institutions within the continental United States), may be carried out without a license.

SECTION 3. LICENSES

The Secretary of the Treasury, acting directly or through any agencies that he may designate, and the Federal Reserve banks acting in accordance with such rules and regulations as the Secretary of the Treasury may from time to time prescribe, are hereby designated as agencies for the granting of licenses as hereinafter provided. Licenses may be granted authorizing such transactions in foreign exchange, transfers of credit, and exports of currency (other than gold certificates) or silver coin in such specific cases or classes of cases as the Secretary of the Treasury may determine in regulations prescribed hereunder and rulings made pursuant thereto.

SECTION 4. REPORTS

The Federal Reserve banks shall keep themselves currently informed as to foreign exchange transactions entered into or consummated, and transfers of credit made between banking institutions outside of the continental United States and banking institutions in their districts, and report to the Secretary of the Treasury all transactions in foreign exchange and all such transfers of credit not permitted under sections 1 or 2 hereof which are effected or attempted in their districts without a license.

SECTION 5. REGULATIONS

The Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations to carry out the purposes of this order, and to provide in such regulations or by rulings made pursuant thereto, the conditions under which licenses may be granted by the Federal Reserve banks and by such other agencies as the Secretary of the Treasury may designate; and the Secretary of the Treasury may require any person engaged in any transaction, transfer, export, or withdrawal referred to in this Executive order to furnish under oath complete information relative thereto, including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person either before or after such transaction, transfer, export, or withdrawal is completed.

SECTION 6. PENALTIES

Whoever willfully violates or knowingly participates in the violation of any provision of this Executive order or of any license, order, rule, or regulation issued or prescribed thereunder, shall be subject to the penalties provided in section 5(b) of the act of October 6, 1917 [section 95a of this title], as amended by section 2 of the act of March 9, 1933.

SECTION 7. DEFINITIONS

As used in this Executive order the term "United States" means the United States and any place subject to the jurisdiction thereof; the term "continental

United States" means the States of the United States, the District of Columbia, and the Territory of Alaska; the term "person" means an individual, partnership, association, or corporation; and the term "banking institution" includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing and selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent; and, for the purposes of this order, each home office, branch, principal, agent, or correspondent of any person so engaged shall be regarded as a separate "banking institution."

SECTION 8. REVOCATION

Section 8 of the Executive order of August 28, 1933 [Ex. Ord. No. 6260, also set out in note under this section], relating to the hoarding, export, and earmarking of gold coin, bullion, or currency and to transactions in foreign exchange, is hereby revoked.

This Executive order and any rules, regulations, or licenses prescribed or issued hereunder may be modified or revoked at any time.

[Sections 9—14 were added to this Order by Ex. Ord. No. 8389, set out under this section. Section 6 of said Ex. Ord. No. 8389, as amended by Ex. Ord. No. 8785, provides that Ex. Ord. No. 8389 shall no longer be deemed an amendment to or part of Ex. Ord. No. 6560.

Ex. Ord. No. 6560 was modified in so far as inconsistent with Ex. Ord. No. 8389, set out under this section, by section 6 of said Ex. Ord. No. 8389.

Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, relating to revocation of executive orders pertaining to regulation of acquisition of, holding of, or other transactions in gold, revoked Ex. Ord. No. 6260 of Aug. 28, 1933 as amended by Ex. Ord. No. 6560.]

Ex. Ord. No. 8389, Regulating Transactions in Foreign Exchange and Foreign-Owned Property, Providing for the Reporting of All Foreign-Owned Property

Ex. Ord. No. 8389, Apr. 10, 1940, 5 F.R. 1400, as amended by Ex. Ord. No. 8405, May 10, 1940, 5 F.R. 1677; Ex. Ord. No. 8446, June 17, 1940, 5 F.R. 2279; Ex. Ord. No. 8484, July 15, 1940, 5 F.R. 2586; Ex. Ord. No. 8493, July 25, 1940, 5 F.R. 2667; Ex. Ord. No. 8565, Oct. 10, 1940, 5 F.R. 4062; Ex. Ord. No. 8701, Mar. 4, 1941, 6 F.R. 1285; Ex. Ord. No. 8711, Mar. 13, 1941, 6 F.R. 1443; Ex. Ord. No. 8721, Mar. 24, 1941, 6 F.R. 1622; Ex. Ord. No. 8746, Apr. 28, 1941, 6 F.R. 2187; Ex. Ord. No. 8785, June 14, 1941, 6 F.R. 2897; Ex. Ord. No. 8832, July 26, 1941, 6 F.R. 3715; Ex. Ord. No. 8963, Dec. 9, 1941, 6 F.R. 6348; Ex. Ord. No. 8998, Dec. 26, 1941, 6 F.R. 6787, provided:

SECTION 1. CERTAIN FOREIGN BANKING TRANSACTIONS PROHIBITED

All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise, if (i) such transactions are by, or on behalf of, or pursuant to the direction of any foreign country designated in this Order, or any national thereof, or (ii) such transactions involve property in which any foreign country designated in this Order, or any national thereof, has at any time on or since the effective date of this Order had any interest of any nature whatsoever, direct or indirect:

A. All transfers of credit between any banking institutions within the United States; and all transfers of credit between any banking institution within the United States and any banking institution outside the United States (including any principal, agent, home office, branch, or correspondent outside the United States, of a banking institution within the United States);

B. All payments by or to any banking institution within the United States;

C. All transactions in foreign exchange by any person within the United States;

D. The export or withdrawal from the United States, or the earmarking of gold or silver coin or buillion or currency by any person within the United States;

E. All transfers, withdrawals or exportations of, or dealings in, any evidences of indebtedness or evidences of ownership of property by any person within the United States; and

F. Any transaction for the purpose or which has the effect of evading or avoiding the foregoing prohibitions.

SECTION 2. DEALINGS IN FOREIGN SECURITIES; REGULATIONS

A. All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury by means of regulations, rulings, instructions, licenses, or otherwise:

(1) The acquisition, disposition or transfer of, or other dealing in, or with respect to, any security or evidence thereof on which there is stamped or imprinted, or to which there is affixed or otherwise attached, a tax stamp or other stamp of a foreign country designated in this Order or a notarial or similar seal which by its contents indicates that it was stamped, imprinted, affixed or attached within such foreign country, or where the attendant circumstances disclose or indicate that such stamp or seal may, at any time, have been stamped, imprinted, affixed or attached thereto; and

(2) The acquisition by, or transfer to, any person within the United States of any interest in any security or evidence thereof if the attendant circumstances disclose or indicate that the security or evidence thereof is not physically situated within the United States.

B. The Secretary of the Treasury may investigate, regulate, or prohibit under such regulations, rulings, or instructions as he may prescribe, by means of licenses or otherwise, the sending, mailing, importing or otherwise bringing, directly or indirectly, into the United States, from any foreign country, of any securities or evidences thereof or the receiving or holding in the United States of any securities or evidences thereof so brought into the United States.

SECTION 3. FOREIGN COUNTRIES AFFECTED; EFFECTIVE DATE OF PROHIBITIONS

The term "foreign country designated in this Order" means a foreign country included in the following schedule, and the term "effective date of this Order" means with respect to any such foreign country, or any national thereof, the date specified in the following schedule:

(a) April 8, 1940—
Norway and
Denmark;
(b) May 10, 1940—
The Netherlands,
Belgium and
Luxembourg;
(c) June 17, 1940—
France (including Monaco);
(d) July 10, 1940—
Latvia, Estonia and
Lithuania;
(e) October 9, 1940—
Rumania;
(f) March 4, 1941—
Bulgaria;
(g) March 13, 1941—
Hungary;
(h) March 24, 1941—
Yugoslavia;
(i) April 28, 1941—
Greece; and
(j) June 14, 1941—
Albania,
Andorra,
Austria,
Czechoslovakia,
Danzig,

Finland,
Germany,
Italy,
Liechtenstein,
Poland,
Portugal,
San Marino,
Spain,
Sweden,
Switzerland, and
Union of Soviet Socialist Republics;

(k) June 14, 1941—
China and
Japan;

(l) June 14, 1941—
Thailand;

(m) June 14, 1941—
Hong Kong.

The "effective date of this Order" with respect to any foreign country not designated in this Order shall be deemed to be June 14, 1941.

SECTION 4. RECORDS OF FOREIGN BANKING AND SECURITY TRANSACTIONS; INVESTIGATIONS

A. The Secretary of the Treasury and/or the Attorney General may require, by means of regulations, rulings, instructions, or otherwise, any person to keep a full record of, and to furnish under oath, in the form of reports or otherwise, from time to time and at any time or times, complete information relative to, any transaction referred to in section 5(b) of the Act of October 6, 1917 (40 Stat. 415) [section 95a of this title], as amended, or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect, including the production of any books of account, contracts, letters, or other papers, in connection therewith, in the custody or control of such person, either before or after such transaction is completed; and the Secretary of the Treasury and/or the Attorney General may, through any agency, investigate any such transaction or act, or any violation of the provisions of this Order.

B. Every person engaging in any of the transactions referred to in sections 1 and 2 of this Order shall keep a full record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least one year after the date of such transaction.

SECTION 5. DEFINITIONS

A. As used in the first paragraph of section 1 of this Order "transactions (which) involve property in which any foreign country designated in this Order, or any national thereof, has * * * any interest of any nature whatsoever, direct or indirect," shall include but not by way of limitation (i) any payment or transfer to any such foreign country or national thereof, (ii) any export or withdrawal from the United States to such foreign country, and (iii) any transfer of credit, or payment of an obligation, expressed in terms of the currency of such foreign country.

B. The term "United States" means the United States and any place subject to the jurisdiction thereof, and the term "continental United States" means the States of the United States, the District of Columbia, and the Territory of Alsaka: *Provided, however,* That for the purposes of this Order the term "United States" shall not be deemed to include any territory included within the term "foreign country" as defined in paragraph D of this section.

C. The term "person" means an individual, partnership, association, corporation, or other organization.

D. The term "foreign country" shall include, but not by way of limitation,

(i) The state and the government thereof on the effective date of this Order as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof.

(ii) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise *de jure* or *de facto* sovereignty over the area which on such effective date constituted such foreign country, and

(iii) Any territory which on or since the effective date of this Order is controlled or occupied by the military, naval or police forces or other authority of such foreign country;

(iv) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing. Hong Kong shall be deemed to be a foreign country within the meaning of this subdivision.

E. The term "national" shall include,

(i) Any person who has been domiciled in, or a subject, citizen or resident of a foreign country at any time on or since the effective date of this Order,

(ii) Any partnership, association, corporation or other organization, organized under the laws of, or which on or since the effective date of this Order had or has had its principal place of business in such foreign country, or which on or since such effective date was or has been controlled by, or a substantial part of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of which, was or has been owned or controlled by, directly or indirectly, such foreign country and/or one or more nationals thereof as herein defined.

(iii) Any person to the extent that such person is, or has been, since such effective date, acting or purporting to act directly or indirectly for the benefit or on behalf of any national of such foreign country, and

(iv) Any other person who there is reasonable cause to believe is a "national" as herein defined.

In any case in which by virtue of the foregoing definition a person is a national of more than one foreign country, such person shall be deemed to be a national of each such foreign country. In any case in which the combined interests of two or more foreign countries designated in this Order and/or nationals thereof are sufficient in the aggregate to constitute, within the meaning of the foregoing, control of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries. The Secretary of the Treasury shall have full power to determine that any person is or shall be deemed to be a "national" within the meaning of this definition, and the foreign country of which such person is or shall be deemed to be a national. Without limitation of the foregoing, the term "national" shall also include any other person who is determined by the Secretary of the Treasury to be, or to have been, since such effective date, acting or purporting to act directly or indirectly for the benefit or under the direction of a foreign country designated in this Order or national thereof, as herein defined.

F. The term "banking institution" as used in this Order shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchasers and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or brokers, and each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate "banking institution".

G. The term "this Order", as used herein, shall mean Executive Order No. 8389 of April 10, 1940, as amended.

SECTION 6. CONSTRUCTION WITH EX. ORD. NO. 6560; SAVING CLAUSE

Executive Order No. 8389 of April 10, 1940, as amended, shall no longer be deemed to be an amendment to or a part of Executive Order No. 6560 of January 15, 1934. Executive Order No. 6560 of January 15, 1934, and the Regulations of November 12, 1934, are hereby modified in so far as they are inconsistent with the provisions of this Order, and except as so modified, continue in full force and effect. Nothing herein shall be deemed to revoke any license, ruling, or instruction now in effect and issued pursuant to Executive Order No. 6560 of January 15, 1934, as amended, or pursuant to this Order; provided, however, that all such licenses, rulings, or instructions shall be subject to the provisions hereof. Any amendment, modification or revocation by or pursuant to the provisions of this Order of any orders, regulations, rulings, instructions or licenses shall not affect any act done, or any suit or proceeding had or commenced in any civil or criminal case prior to such amendment, modification or revocation, and all penalties, forfeitures and liabilities under any such orders, regulations, rulings, instructions or licenses shall continue and may be enforced as if such amendment, modification or revocation had not been made.

SECTION 7. REGULATIONS BY SECRETARY OF THE TREASURY

Without limitation as to any other powers or authority of the Secretary of the Treasury or the Attorney General under any other provision of this Order, the Secretary of the Treasury is authorized and empowered to prescribe from time to time regulations, rulings, and instructions to carry out the purposes of this Order and to provide therein or otherwise the conditions under which licenses may be granted by or through such officers or agencies as the Secretary of the Treasury may designate, and the decision of the Secretary with respect to the granting, denial or other disposition of an application or license shall be final.

SECTION 8. OFFENSES AND PENALTIES UNDER ACT OCT. 6, 1917

Section 5(b) of the Act of October 6, 1917, as amended, provides in part:

"* * * Whoever willfully violates any of the provisions of this subdivision or of any license, order, rule or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both."

SECTION 9. AMENDMENTS OF ORDER AND REGULATIONS PRESCRIBED THEREUNDER

This Order and any regulations, rulings, licenses or instructions issued hereunder may be amended, modified or revoked at any time.

[Ex. Ord. No. 8389 and the regulations and general rulings issued thereunder by the Secretary of the Treasury were approved and confirmed by Res. May 7, 1940, ch. 185, § 2, 54 Stat. 179.]

[Ex. Ord. No. 9760, July 24, 1946, 11 F.R. 7999, 50 U.S.C. App., § 6 note, relating to diplomatic property of Germany and Japan in the United States, supersedes conflicting provisions of Ex. Ord. No. 8389, set out above.]

EXECUTIVE ORDERS NOS. 8446, 8484, 8565, 8701, 8711, 8721, 8746

The application of Ex. Ord. No. 6560, §§ 9 to 14, to French property by Ex. Ord. No. 8446, 5 F.R. 2279; to Latvian, Estonian and Lithuanian property by Ex. Ord. No. 8484, 5 F.R. 2586; to Rumanian property by Ex. Ord. No. 8565, 5 F.R. 4062; to Bulgarian property by Ex. Ord. No. 8701, 6 F.R. 1285; to Hungarian property by Ex. Ord. No. 8711, 6 F.R. 1443; to Yugoslav property by Ex. Ord. No. 8721, 6 F.R. 1622; to Greek property by Ex. Ord. No. 8746, 6 F.R. 2187, was incorporated in the provisions of Ex. Ord. No. 8389 as amended by Ex. Ord. No. 8785, set out as a note under this section.

EX. ORD. NO. 9747. FUNCTIONS OF ALIEN PROPERTY CUSTODIAN AND TREASURY DEPARTMENT CONTINUED IN PHILIPPINES

Ex. Ord. No. 9747, July 8, 1946, 11 F.R. 7518, provided:

The terms and provisions of Executive Order 9095 of March 11, 1942, as amended [set out as a note under section 6 of Title 50, Appendix], and Executive Order No. 8389 of April 10, 1940, as amended [set out as a note under this section], shall continue in force in the Philippines after July 4, 1946, and all powers and authority delegated by the said Executive Orders to the Alien Property Custodian and to the Secretary of the Treasury, respectively, shall after July 4, 1946, continue to be exercised in the Philippines by the said officers, respectively, as therein provided.

EXECUTIVE ORDER NO. 10348

Ex. Ord. No. 10348, April 28, 1952, 17 F.R. 3769, which provided that Ex. Ord. No. 8389, April 10, 1940, 5 F.R. 1400, as amended, set out as a note under this section, and all delegations, designations, regulations, rulings, instructions, and licenses issued under such order, should be continued in force according to their terms for the duration of the period of the national emergency proclaimed by Proclamation No. 2914 of December 16, 1950, set out as a note preceding section 1 of Title 50, Appendix, War and National Defense, was superseded by Ex. Ord. No. 11281, May 13, 1966, 31 F.R. 7215, set out as a note under section 6 of Title 50, Appendix.

EX. ORD. NO. 11387. GOVERNING CERTAIN CAPITAL TRANSFERS ABROAD

Ex. Ord. No. 11387, Jan. 1, 1968, 33 F.R. 47, provided:

By virtue of the authority vested in the President by section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a) [this section], and in view of the continued existence of the national emergency declared by Proclamation No. 2914 of December 16, 1950, and the importance of strengthening the balance of payments position of the United States during this national emergency, it is hereby ordered:

1. (a) Any person subject to the jurisdiction of the United States who, alone or together with one or more affiliated persons, owns or acquires as much as a 10% interest in the voting securities, capital or earnings of a foreign business venture is prohibited on or after the effective date of this Order, except as expressly authorized by the Secretary of Commerce, from engaging in any transaction involving a direct or indirect transfer of capital to or within any foreign country or to any national thereof outside the United States.

(b) The Secretary of Commerce is authorized to require, as he determines to be necessary or appropriate to strenghen the balance of payments position of the United States, that any person subject to the jurisdiction of the United States who, alone or together with one or more affiliated persons, owns or acquires as much as a 10% interest in the voting securities, capital or earnings of one or more foreign business ventures shall cause to be repatriated to the United States such part as the Secretary of Commerce may specify of (1) the earnings of such foreign business ventures which are attributable to such person's investments therein and (2) bank deposits and other short term financial assets which are held in foreign countries by or for the account of such person. Any person subject to the jurisdiction of the United States is required on or after the effective date of this Order, to comply with any such requirement of the Secretary of Commerce.

(c) The Secretary of Commerce shall exempt from the provisions of this section 1, to the extent delineated by the Board of Governors of the Federal Reserve System (hereinafter referred to as the Board), banks or financial institutions certified by the Board as being subject to the Federal Reserve Foreign Credit Restraint Programs, or to any program instituted by the Board under section 2 of this Order.

2. The Board is authorized in the event that it determines such action to be necessary or desirable to strengthen the balance of payments position of the United States:

(a) to investigate, regulate or prohibit any transaction by any bank or other financial institution subject to the jurisdiction of the United States involving a direct or indirect transfer of capital to or within any foreign country or to any national thereof outside the United States; and

(b) to require that any bank or financial institution subject to the jurisdiction of the United States shall cause to be repatriated to the United States such part as the Board may specify of the bank deposits and other short term financial assets which are held in foreign countries by or for the account of such bank or financial institution. Any bank or financial institution subject to the jurisdiction of the United States shall comply with any such requirement of the Board on and after its effective date.

3. The Secretary of Commerce and the Board are respectively authorized, under authority delegated to each of them under this Order or otherwise available to them, to carry out the provisions of this Order, and to prescribe such definitions for any terms used herein, to issue such rules and regulations, orders, rulings, licenses and instructions, and to take such other actions, as each of them determines to be necessary or appropriate to carry out the purposes of this Order and their respective responsibilities hereunder. The Secretary of Commerce and the Board may each redelegate to any agency, instrumentality or official of the United States any authority under this Order, and may, in administering this Order, utilize the services of any other agencies, Federal or State, which are available and appropriate.

4. The Secretary of State shall advise the Secretary of Commerce and the Board with respect to matters under this Order involving foreign policy. The Secretary of Commerce and the Board shall consult as necessary and appropriate with each other and with the Secretary of the Treasury.

5. The delegations of authority in this Order shall not affect the authority of any agency or official pursuant to any other delegation of presidential authority, presently in effect or hereafter made, under section 5(b) of the act of October 6, 1917, as amended (12 U.S.C. 95a) [this section].

LYNDON B. JOHNSON.

EX. ORD. NO. 11825. REVOCATION OF EXECUTIVE ORDERS PERTAINING TO REGULATION OF ACQUISITION OF, HOLDING OF, OR OTHER TRANSACTIONS IN GOLD

Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, provided:

By virtue of the authority vested in me by section 1 of the Act of August 8, 1950, 64 Stat. 419, and section 5(b) of the Act of October 6, 1917, as amended (12 U.S.C. 95a) [this section], and as President of the United States, and in view of the provisions of section 3 of Public Law 93-110, 87 Stat. 352, as amended by section 2 of Public Law 93-373, 88 Stat. 445, [set out as notes under section 442 of Title 31], it is ordered as follows:

SECTION 1. Executive Order No. 6260 of August 28, 1933, as amended by Executive Order No. 6359 of October 25, 1933, Executive Order No. 6556 of January 12, 1934, Executive Order No. 6560 of January 15, 1934, Executive Order No. 10896 of November 29, 1960, Executive Order No. 10905 of January 14, 1961, and Executive Order No. 11037 of July 20, 1962; the fifth and sixth paragraphs of Executive Order No. 6073, March 10, 1933 [formerly set out as a note under section 95 of this title]; sections 3 and 4 of Executive Order No. 6359 of October 25, 1933 [set out as a note under section 248 of this title]; and paragraph 2(d) of Executive Order No. 10289 of September 17, 1951 [set out as a note under section 301 of Title 3], are hereby revoked.

SECTION 2. The revocation, in whole or in part, of such prior Executive orders relating to regulation on the acquisition of, holding of, or other transactions in gold shall not affect any act completed, or any right accruing or accrued, or any suit or proceeding finished or started in any civil or criminal cause prior to the revocation, but all such liabilities, penalties, and forfeitures under the Executive orders shall continue and may be enforced in the same manner as if the revocation had not been made.

This order shall become effective on December 31, 1974.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 95b, 212, 213 of this title; title 31 section 1141.

§ 95b. Ratification of acts of President and Secretary of Treasury under section 95a

The actions, regulations, rules, licenses, orders and proclamations heretofore or hereafter taken, promulgated, made, or issued by the President of the United States or the Secretary of the Treasury since March 4, 1933, pursuant to the authority conferred by section 95a of this title, are approved and confirmed.

(Mar. 9, 1933, ch. 1, title I, § 1, 48 Stat. 1.)

CROSS REFERENCES

Right to amend, separability of provisions, and ratification of acts done under this section, see sections 212 and 213 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 212, 213 of this title.

SUBCHAPTER V—OBTAINING AND ISSUING CIRCULATING NOTES

§ 101. Delivery of circulating notes; deposit of bonds

Upon the deposit with the Treasurer of the United States, by any national banking association, of any bonds of the United States in the manner provided by existing law, such association shall be entitled to receive from the Comptroller of the Currency circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited; and any national banking association on March 14, 1900, having bonds on deposit for the security of circulating notes, and upon which an amount of circulating notes has been issued less than the par value of the bonds, shall be entitled, upon due application to the Comptroller of the Currency, to receive additional circulating notes in blank to an amount which will increase the circulating notes held by such association to the par value of the bonds deposited, such additional notes to be held and treated in the same way as circulating notes of national banking associations heretofore issued, and subject to all the provisions of law affecting such notes: *Provided*, That nothing herein contained shall be construed to modify or repeal the provisions of section 175 of this title, authorizing the Comptroller of the

Currency to require additional deposits of bonds or of lawful money in case the market value of the bonds held to secure the circulating notes shall fall below the par value of the circulating notes outstanding for which such bonds may be deposited as security: *And provided further,* That the circulating notes furnished to national banking associations under the provisions of this section shall be of the denominations prescribed by law: *And provided further,* That the total amount of such notes issued to any such association may equal at any time but shall not exceed the amount at such time of its capital stock actually paid in: *And provided further,* That under regulations to be prescribed by the Secretary of the Treasury any national banking association may substitute the 2 per centum bonds issued under the provisions of section 751 of title 31, for any of the bonds deposited with the Treasurer to secure circulation or to secure deposits of public money.

(Mar. 14, 1900, ch. 41, § 12, 31 Stat. 49; Oct. 5, 1917, ch. 74, § 2, 40 Stat. 342.)

REFERENCES IN TEXT

In the original, "this section" and "section 751 of Title 31", read "this act" meaning act Mar. 14, 1900. The act of Mar. 14, 1900, was incorporated into the Code as sections 51, 101, 177, 178, and former section 542 of this title and sections 146, 313, 314, former section 320, sections 406, 408, 410, 411, 429, 455, and 751 of Title 31, Money and Finance.

AMENDMENT

1917—Act Oct. 5, 1917, struck out of the second proviso the exception "that no national banking association shall, after the passage of this Act, be entitled to receive from the Comptroller of the Currency, or to issue or reissue or place in circulation, more than one-third in amount of its circulating notes of the denomination of five dollars".

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

SECURITY FOR NOTES

Act July 22, 1932, ch. 522, § 29, 47 Stat. 740, provided that for a period of three years from July 22, 1932, all outstanding bonds of the United States theretofore issued or issued during such period, should be receivable by the Treasurer of the United States as security for the issuance of circulating notes to national bank associations.

CROSS REFERENCES

Definition of capital stock as used in this section, see section 51c of this title.

Deposit of bonds to secure circulation, see section 101a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 51c of this title; title 31 sections 313, 455.

§ 101a. Deposit of bonds to secure circulation

Any national banking association after having complied with the provisions of this chapter desiring to issue circulating notes shall transfer and deliver to the Treasurer of the United States, United States registered bonds, Consols. of 1930, or United States registered 2 per centum Panama Canal bonds, in an amount not in excess of the paid-in capital stock of the national banking association. Such bonds shall be received by the Treasurer upon deposit and shall be by him safely kept in his office until they shall be otherwise disposed of in pursuance of the provisions of this chapter.

(R.S. § 5159; Dec. 23, 1913, ch. 6, § 17, 38 Stat. 268; June 21, 1917, ch. 32, § 9, 40 Stat. 239.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

CODIFICATION

The text of this section is based upon R.S. § 5159 as modified by acts Dec. 23, 1913, and June 21, 1917.

R.S. § 5159 provided: "Every association, after having complied with the provisions of this Title (Title LXII of the Revised Statutes), preliminary to the commencement of the banking business, and before it shall be authorized to commence banking business under this Title (Title LXII of the Revised Statutes), shall transfer and deliver to the Treasurer of the United States any United States registered bonds, bearing interest, to an amount not less than thirty thousand dollars and not less than one-third of the capital stock paid in. Such bonds shall be received by the Treasurer upon deposit, and shall be by him safely kept in his office, until they shall be otherwise disposed of, in pursuance of the provisions of this Title."

Act Dec. 23, 1913, as amended and reenacted by act June 21, 1917, provided: "So much of the provisions of Section fifty-one hundred and fifty-nine of the Revised Statutes of the United States, and section four of the act of June twentieth, eighteen hundred and seventy-four, and section eight of the act of July twelfth, eighteen hundred and eighty-two, and of any other provisions of existing statutes as require that before any national banking association shall be authorized to commence banking business it shall transfer and deliver to the Treasurer of the United States a stated amount of United States registered bonds, and so much of those provisions or of any other provisions of existing statutes as require any national banking association now or hereafter organized to maintain a minimum deposit of such bonds with the Treasurer is hereby repealed."

The effect on R.S. § 5159 of said act of Dec. 23, 1913, as amended, was to repeal that portion of R.S. § 5159 which made the deposit of bonds compulsory. But that portion which authorizes the voluntary deposit of bonds is still in force.

PRIOR PROVISIONS

R.S. § 5159 is derived from act June 3, 1864, ch. 106, § 16, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

REDEMPTION OF BONDS

In a communication from the Treasury Department dated February 17, 1941, it was stated: "The Secretary of the Treasury called for redemption the only outstanding issues of United States bonds bearing the circulation privilege as follows:

"2% Consols. of 1930, as of July 1, 1935,

"2% Panama Canal bonds of 1916-36, and

"2% Panama Canal bonds of 1918-38, as of August 1, 1935.

"The retirement of these issues automatically put an end to National Bank note circulation and the collection of the tax thereon."

TYPE OF BONDS REQUIRED

The original phraseology of R.S. § 5159, upon which this section is based, called for delivery to the Treasur-

er of the United States of "any United States registered bonds, bearing interest, to an amount not less than thirty thousand dollars and not less than one-third of the capital stock paid in." The amendments to this section by Acts Dec. 23, 1913 and June 21, 1917, did not affect the kind of bond deposited, but changed the mandatory deposit requirement to a permissive one.

Under section 743 of Title 31, Money and Finance, United States registered 2 per centum Panama Canal bonds were to have "all the rights and privileges accorded by law to other 2 per cent bonds of the United States." When R.S. § 5159 was codified, Panama Canal 2 per cent bonds were added in the text, since the full privileges accorded these bonds under section 743 of Title 31 would include deposit to secure circulation of notes.

Section 101 of this title expressly states that "any national banking association may substitute the 2 per centum bonds [Consols. of 1930] issued under provisions of section 751 of Title 31, for any of the bonds deposited with the Treasurer to secure circulation or to secure deposits of public money." This authorization warranted the inclusion of Consols. of 1930 into the wording of this section.

§ 102. "United States bonds" as including registered bonds

The term "United States bonds", as used throughout this chapter, shall be construed to mean registered bonds of the United States.

(R.S. § 5158.)

References in Text

In the original "this chapter" referred to chapter 2 of Title LXII of the Revised Statutes. Chapter 2 was incorporated in the Code as sections 26 to 28, 37, 101a, 102, 104, 107 to 110, 124, 151, 152, and 168 to 175 of this title. See, also, sections 8, 333, 334 and 475 of Title 18, Crimes and Criminal Procedure.

Prior Provisions

R.S. § 5158 is derived from act June 3, 1864, ch. 106, § 4, 13 Stat. 100, which was the National Bank Act. See section 38 of this title.

§ 103. Denominations of notes; limitation on amount of $1 and $2 notes

Any national banking association, upon compliance with the provisions of law applicable thereto, shall be entitled to receive from the Comptroller of the Currency, or to issue or reissue, or place in circulation notes in denominations of $1, $2, $5, $10, $20, $50, and $100 in such proportion as to each of said denominations as the bank may elect: *Provided, however,* That no bank shall receive or have in circulation at any one time more than $25,000 in notes of the denominations of $1 and $2.

(Oct. 5, 1917, ch. 74, § 3, 40 Stat. 342.)

Exception as to Transfer of Functions

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions the Secretary of the Treasury, see note set out under section 1 of this title.

§ 104. Printing notes; form

In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom and numbered such quantity of circulating notes in blank, or bearing engraved signatures of officers as herein provided, of the denominations of $1, $2, $5, $10, $20, $50, $100, $500, and $1,000, as may be required to supply the associations entitled to receive the same. Such notes shall express upon their face that they are secured by United States bonds deposited with the Treasurer of the United States, by the written or engraved signatures of the Treasurer and Register, and by the imprint of the seal of the Treasury; and shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the written or engraved signatures of the president or vice president and cashier; and shall bear such devices and such other statements and shall be in such form as the Secretary of the Treasury shall, by regulation, direct.

(R.S. § 5172; May 30, 1908, ch. 229, § 11, 35 Stat. 551; Dec. 23, 1913, ch. 6, § 27, 38 Stat. 274; Aug. 4, 1914, ch. 225, 38 Stat. 682; Mar. 3, 1919, ch. 101, § 4, 40 Stat. 1315.)

Exception as to Transfer of Functions

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

Prior Provisions

R.S. § 5172 is derived from act June 3, 1864, ch. 106, § 22, 13 Stat. 105, which was the National Bank Act. See section 38 of this title.

§ 105. Printing charter numbers on notes

The Comptroller of the Currency shall, under such rules and regulations as the Secretary of the Treasury may prescribe, cause the charter-numbers of the association to be printed upon all national-bank notes which may be hereafter issued by him.

(June 20, 1874, ch. 343, § 5, 18 Stat. 124.)

Exception as to Transfer of Functions

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 106. Distinctive paper for printing

The national-bank notes shall be printed under the direction of the Secretary of the Treasury, and upon the distinctive or special paper which has been, or may hereafter be, adopted by him for printing United States notes.

(Mar. 3, 1875, ch. 130, § 1, 18 Stat. 372.)

§ 107. Custody of plates and dies; payment of expenses

The plates and special dies to be procured by the Comptroller of the Currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the laws respecting the procuring of such notes, and all other expenses of the Bureau of the Currency, shall be paid out of the proceeds of the taxes or

duties assessed and collected on the circulation of national banking associations under this chapter.

(R.S. § 5173.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5173 is derived from act June 3, 1864, ch. 106, § 41, 13 Stat. 111, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Banking associations to reimburse Treasury the cost of engraving plates, see section 121 of this title.
Expenses of redemption and replacement of circulating notes, see section 121 of this title.

§ 108. Examination of plates, dies, and other material; destruction of obsolete material

The Comptroller of the Currency shall cause to be examined, each year, the plates, dies, bed pieces, and other material from which the national-bank circulation is printed, in whole or in part, and file in his office annually a correct list of the same. Such material as shall have been used in the printing of the notes of associations which are in liquidation, or have closed business, shall be destroyed under such regulations as shall be prescribed by the Comptroller of the Currency and approved by the Secretary of the Treasury. The expenses of any such examination or destruction shall be paid out of any appropriation made by Congress for the special examination of national banks and banknote plates.

(R.S. § 5174; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5174 is derived from act Mar. 3, 1873, ch. 269, § 4, 17 Stat. 603.

CROSS REFERENCES

Federal reserve notes, application to, see section 421 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 421 of this title.

§ 109. Issuance of notes by banks; obligation; signatures of officers; demands for which notes shall be received

Any association receiving circulating notes under this chapter may, if its promise to pay such notes on demand is expressed thereon attested by the written or engraved signatures of the president or vice president and the cashier thereof in such manner as to make them obligatory promissory notes payable on demand at its place of business, issue, and circulate the same as money. Such written or engraved signatures of the president or vice president and the cashier of such association may be attached to such notes either before or after the receipt of such notes by such association. And such notes shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency.

(R.S. § 5182; Jan. 13, 1920, ch. 38, 41 Stat. 387.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

PRIOR PROVISIONS

R.S. § 5182 is derived from act June 3, 1864, ch. 106, § 23, 13 Stat. 106, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Circulating notes of national banking associations and Federal reserve banks made legal tender, see section 392 of Title 31, Money and Finance.

§ 110. Issue by banks of unauthorized notes; prohibition

No national banking association shall issue post notes or any other notes to circulate as money than such as are authorized by the provisions of this chapter.

(R.S. § 5183; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in text note under section 21 of this title.

PRIOR PROVISIONS

R.S. § 5183 is derived from act June 3, 1864, ch. 106, § 23, 13 Stat. 106, which was the National Bank Act. See section 38 of this title.

SUBCHAPTER VI—REDEMPTION AND REPLACEMENT OF CIRCULATING NOTES

§ 121. Redemption of notes by Treasurer of United States; reserve in Treasury; disposition of notes unfit for use; expenses

Every national banking association organized under the provisions of this chapter shall at all times keep and have on deposit in the Treasury of the United States, in lawful money of the United States, a sum equal to 5 per centum of its circulation, to be held and used for the redemption of such circulation, which sum shall in no case be counted as a part of its legal reserve; and when the circulating notes of any such associations, assorted or unassorted, shall be presented for redemption, in sums of $1,000, or any multiple thereof, to the Treasurer of the United States, the same shall be redeemed in United States notes. All notes so redeemed shall be charged by the Treasurer of the United States to the respective associations issuing the

same, and he shall notify them severally, on the 1st day of each month, or oftener, at his discretion, of the amount of such redemptions; and whenever such redemptions for any association shall amount to the sum of $500, such association so notified shall forthwith deposit with the Treasurer of the United States a sum in United States notes equal to the amount of its circulating notes so redeemed. And all notes of national banks worn, defaced, mutilated, or otherwise unfit for circulation shall, when received at any designated depository of the United States, be forwarded to the Treasurer of the United States for redemption as provided herein. And when such redemptions have been so reimbursed, the circulating notes so redeemed shall be forwarded to the respective associations by which they were issued; but if any of such notes are worn, mutilated, defaced, or rendered otherwise unfit for use, they shall be forwarded to the Comptroller of the Currency and destroyed and replaced as now provided by law: *Provided,* That each of said associations shall reimburse to the Treasury the charges for transportation, and the costs for assorting such notes; and the associations organized after June 20, 1874, shall also severally reimburse to the Treasury the cost of engraving such plates as shall be ordered by each association respectively; and the amount assessed upon each association shall be in proportion to the circulation redeemed, and be charged to the fund on deposit with the Treasurer.

(June 20, 1874, ch. 343, § 3, 18 Stat. 123; Dec. 23, 1913, ch. 6, § 20, 38 Stat. 271; May 29, 1920, ch. 214, § 1, 41 Stat. 654.)

REFERENCES IN TEXT

In the original, "this chapter" reads "the said act, and of the several acts amendatory thereof," meaning act June 3, 1864, ch. 106, 13 Stat. 99. For distribution of the Act in this Code, see References in Text note under section 38 of this title.

TRANSFER OF FUNCTIONS

All functions of all officers of the Department of the Treasury, and all functions of all agencies and employees of such Department, were transferred, with certain exceptions, to the Secretary of the Treasury, with power vested in him to authorize their performance or the performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§ 1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to Title 5, Government Organization and Employees. The Comptroller of the Currency, and the Treasurer of the United States, both referred to in this section, are officers of the Treasury Department, but such Plan excepted, from the transfer, any function vested by law in the Comptroller of the Currency.

ASSISTANT TREASURER

Act May 29, 1920, abolished the office of Assistant Treasurer at specified cities.

CROSS REFERENCES

Cancellation of redeemed notes, see section 136 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 122, 177 of this title.

§ 121a. Redemption of notes unidentifiable as to bank of issue

Whenever any national-bank notes, Federal Reserve bank notes, or Federal Reserve notes are presented to the Treasurer of the United States for redemption and such notes cannot be identified as to the bank of issue or the bank through which issued, the Treasurer of the United States may redeem such notes under such rules and regulations as the Secretary of the Treasury may prescribe, and the notes, other than Federal Reserves notes, so redeemed shall be forwarded to the Comptroller of the Currency for cancellation and destruction.

(June 13, 1933, ch. 62, § 1, 48 Stat. 127; May 20, 1966, Pub. L. 89-427, § 4(a), 80 Stat. 161.)

AMENDMENTS

1966—Pub. L. 89-427 excepted Federal Reserve notes from the category of notes which, upon redemption by the Treasurer of the United States, must be forwarded to the Comptroller of the Currency for cancellation and destruction.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 122a of this title.

§ 122. Deposits made with Treasurer to redeem circulating notes; disposition

All deposits received by the Treasurer of the United States from national banks, made to redeem the circulating notes of such banks, shall be covered into the Treasury as a miscellaneous receipt, and the Treasurer of the United States shall redeem from the general cash in the Treasury the circulating notes of said banks which may come into his possession subject to redemption; and upon the certificate of the Comptroller of the Currency that such notes have been received by him and that they have been destroyed and that no new notes will be issued in their place, reimbursement of their amount shall be made to the Treasurer, under such regulations as the Secretary of the Treasury may prescribe from the appropriation known as "National-bank notes, redemption account", but the provisions of this section, section 145 of this title, and sections 408, 410, and 453 of title 31 shall not apply to the deposits received under section 121 of this title, requiring every national bank to keep in lawful money with the Treasurer of the United States a sum equal to 5 per centum of its circulation, to be held and used for the redemption of its circulating notes; and the balance remaining of the deposits so covered shall, at the close of each month, be reported on the monthly public-debt statement as debt of the United States bearing no interest.

(July 14, 1890, ch. 708, § 6, 26 Stat. 289.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 122a of this title.

§ 122a. Redeemed notes of unidentifiable issue; funds charged against

National-bank notes and Federal Reserve bank notes redeemed by the Treasurer of the United States under section 121a of this title shall be charged against the balance of deposits for the retirement of national-bank notes and Federal Reserve bank notes under the provisions of sections 122 and 445 of this title; and charges for Federal Reserve notes redeemed by the Treasurer of the United States under section 121a of this title shall be apportioned among the twelve Federal Reserve banks as determined by the Board of Governors of the Federal Reserve System.

(June 13, 1933, ch. 62, § 2, 48 Stat. 128; May 20, 1966, Pub. L. 89-427, § 4(b), 80 Stat. 161.)

REFERENCES IN TEXT

Section 445 of this title, referred to in the text, was repealed by act June 12, 1945, ch. 186, § 3, 59 Stat. 238.

AMENDMENTS

1966—Pub. L. 89-427 substituted provisions allowing the Board of Governors of the Federal Reserve System to determine the proper apportioning between the Federal Reserve banks of the charges for the redemption by the Treasurer of the United States of Federal Reserve notes that are unidentifiable as to bank of issue for provisions that set out the exact formula for determining the proper apportioning of charges using a proportion based upon the amount of Federal Reserve notes of each Federal Reserve bank in circulation in the 31st day of December of the year preceding the date of redemption, with the amount apportioned under the formula charged by the Treasurer of the United States against deposit in the gold-redemption fund made by the bank or its Federal Reserve agent.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

§ 123. Redemption of notes by bank at own counter

Every national banking association shall redeem its circulating notes at its own counter, at par, in lawful money on demand.

(R.S. § 5195; June 20, 1874, ch. 343, § 3, 18 Stat. 123.)

PRIOR PROVISIONS

R.S. § 5195 is derived from act June 3, 1864, ch. 106, § 32, 13 Stat. 109, which was the National Bank Act. See section 38 of this title.

§ 124. Destroying and replacing notes unfit for use

It shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any banking association, and also, on due proof of the destruction of any such circulating notes, to deliver in place thereof to the association other blank circulating notes to an equal amount. Such worn-out or mutilated notes, after a memorandum has been entered in the proper books, in accordance with such regulations as may be established by the comptroller, as well as all circulating notes which shall have been paid or surrendered to be canceled, shall be macerated in presence of four persons, one to be appointed by the Secretary of the Treasury, one by the Comptroller of the Currency, one by the Treasurer of the United States, and one by the association, under such regulations as the Secretary of the Treasury may prescribe. A certificate of such maceration, signed by the parties so appointed, shall be made in the books of the comptroller, and a duplicate thereof forwarded to the association whose notes are thus canceled.

(R.S. § 5184; June 23, 1874, ch. 455, § 1, 18 Stat. 206.)

TRANSFER OF FUNCTIONS

For transfer of function to the Secretary of the Treasury, see note set out under section 121 of this title.

PRIOR PROVISIONS

R.S. § 5184 is derived from act June 3, 1864, ch. 106, § 24, 13 Stat. 106, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Destruction of redeemed notes, see section 186 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 186 of this title.

§ 125. Redemption of lost or stolen notes

The provisions of this chapter, providing for the redemption of national bank notes, shall apply to all national bank notes that have been or may be issued to, or received by, any national bank, notwithstanding such notes may have been lost by or stolen from the bank and put in circulation without the signature or upon the forged signature of the president or vice-president and cashier.

(July 28, 1892, ch. 317, 27 Stat. 322.)

REFERENCES IN TEXT

In the original, "this chapter" reads "the revised statutes of the United States".

§ 126. Return to Treasury of notes of failed or liquidated banks for redemption

It shall be the duty of the Treasurer, designated depositaries, and national-bank depositaries of the United States to assort and return to the Treasury for redemption the notes of such national banks as have failed or gone into voluntary liquidation for the purpose of winding up their affairs, and such as shall hereafter so fail or go into liquidation.

(June 20, 1874, ch. 343, § 8, 18 Stat. 125.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

§ 127. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 633

Section, act Mar. 3, 1875, ch. 130, § 3, 18 Stat. 399, provided for a clerical force for redemption of circulating notes.

SUBCHAPTER VII—PROCEEDINGS ON FAILURE OF BANK TO REDEEM CIRCULATING NOTES

Cross References

Appointment of receiver, see section 191 et seq. of this title.

§ 131. Protest of notes; waiver

Whenever any national banking association fails to redeem in the lawful money of the United States any of its circulating notes, upon demand of payment duly made during the usual hours of business, at the office of such association, or at its designated place of redemption, the holder may cause the same to be protested, in one package, by a notary public, unless the president or cashier of the association whose notes are presented for payment offers to waive demand and notice of the protest, and, in pursuance of such offer, makes, signs, and delivers to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the nonpayment thereof. The notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the Comptroller of the Currency, retaining a copy thereof. If, however, satisfactory proof is produced to the notary public that the payment of the notes demanded is restrained by order of any court of competent jurisdiction, he shall not protest the same. When the holder of any notes causes more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

(R.S. § 5226; June 20, 1874, ch. 343, § 3, 18 Stat. 123.)

Codification

Prior to act June 20, 1874, there appeared in the first sentence after the words "presented for payment" the following: "or the president or cashier of the association at the place at which they are redeemable".

Exception as to Transfer of Functions

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

Prior Provisions

R.S. § 5226 is derived from act June 3, 1864, ch. 106, § 46, 13 Stat. 113, which was the National Bank Act. See section 38 of this title.

Section Referred to in Other Sections

This section is referred to in sections 132, 192 of this title.

§ 132. Examination of conditions by special agent; forfeiture of bonds

On receiving notice that any national banking association has failed to redeem any of its circulating notes, as specified in section 131 of this title, the Comptroller of the Currency, with the concurrence of the Secretary of the Treasury, may appoint a special agent, of whose appointment immediate notice shall be given to such association, who shall immediately proceed to ascertain whether it has refused to pay its circulating notes in the lawful money of the United States, when demanded, and shall report to the Comptroller the fact so ascertained. If, from such protest, and the report so made, the Comptroller is satisfied that such association has refused to pay its circulating notes and is in default, he shall, within thirty days after he has received notice of such failure, declare the bonds deposited by such association forfeited to the United States, and they shall thereupon be so forfeited.

(R.S. § 5227.)

Exception as to Transfer of Functions

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

Prior Provisions

R.S. § 5227 is derived from act June 3, 1864, ch. 106, § 47, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

Cross References

Injunction by bank denying failure to redeem notes, see section 195 of this title.

Section Referred to in Other Sections

This section is referred to in sections 137, 192, 195 of this title.

§ 133. Continuing business after default

After a default on the part of an association to pay any of its circulating notes has been ascertained by the Comptroller, and notice thereof has been given by him to the association, it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits.

(R.S. § 5228; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320.)

Amendments

1875—Act Feb. 18, 1875, substituted "thereof", for "of forfeiture of the bonds".

Exception as to Transfer of Functions

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

Prior Provisions

R.S. § 5228 is derived from act June 3, 1864, ch. 106, § 46, 13 Stat. 114, which was the National Bank Act, and act Feb. 18, 1875, ch. 18 Stat. 320. See section 38 of this title.

§ 134. Notice by Comptroller to holders to present notes for payment; redemption; cancellation of bonds

Immediately upon declaring the bonds of an association forfeited for nonpayment of its notes, the Comptroller shall give notice, in such manner as the Secretary of the Treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such associ-

ation, to present them for payment at the Treasury of the United States; and the same shall be paid as presented in lawful money of the United States; whereupon the Comptroller may, in his discretion, cancel an amount of bonds pledged by such association equal at current market rates, not exceeding par, to the notes paid.

(R.S. § 5229.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5229 is derived from act June 3, 1864, ch. 106, § 47, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

§ 135. Disposition of redeemed notes; perpetuation of evidence of payment

The Secretary of the Treasury may, from time to time, make such regulations respecting the disposition to be made of circulating notes after presentation at the Treasury of the United States for payment, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper.

(R.S. § 5232.)

PRIOR PROVISIONS

R.S. § 5232 is derived from act June 3, 1864, ch. 106, § 47, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

§ 136. Cancellation of redeemed notes

All notes of national banking associations presented at the Treasury of the United States for payment shall, on being paid, be canceled.

(R.S. § 5233.)

PRIOR PROVISIONS

R.S. § 5233 is derived from act June 3, 1864, ch. 106, § 47, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Redemption, destruction, and replacement of circulating notes, see section 121 of this title.

§ 137. Sale of bonds at auction; lien on assets

Whenever the Comptroller has become satisfied, by the protest or the waiver and admission specified in section 131 of this title, or by the report provided for in section 132 of this title, that any association has refused to pay its circulating notes, he may, instead of canceling its bonds, cause so much of them as may be necessary to redeem its outstanding notes to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to the association. For any deficiency in the proceeds of all the bonds of an association, when thus sold, to reimburse to the United States the amount expended in paying the circulating notes of the association, the United States shall have a paramount lien upon all its assets; and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

(R.S. § 5230.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5230 is derived from act June 3, 1864, ch. 106, §§ 47, 48, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 131 of this title.

§ 138. Sale of bonds at private sale

The Comptroller may, if he deems it for the interest of the United States, sell at private sale any of the bonds of an association shown to have made default in paying its notes, and receive therefor either money or the circulating notes of the association. But no such bonds shall be sold by private sale for less than par, nor for less than the market value thereof at the time of sale; and no sales of any such bonds, either public or private, shall be complete until the transfer of the bonds shall have been made with the formalities prescribed by sections 170 to 172 of this title.

(R.S. § 5231.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5231 is derived from act June 3, 1864, ch. 106, § 49, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

SUBCHAPTER VIII—RESERVE CITIES; LAWFUL RESERVES

§ 141. Central reserve and reserve cities; designation

The cities of New York and Chicago are designated as central reserve cities, and the following cities are designated as reserve cities:

Boston	Indianapolis
Albany	Chicago
Brooklyn and Bronx	Peoria
Buffalo	Detroit
Philadelphia	Grand Rapids
Pittsburgh	Milwaukee
Baltimore	Minneapolis
Washington	St. Paul
Richmond	Cedar Rapids
Atlanta	Des Moines
Little Rock	Dubuque
Louisville	Sioux City
Memphis	Kansas City, Mo.
Nashville	St. Joseph
Cincinnati	Jacksonville
Cleveland	Birmingham
Columbus	New Orleans
Toledo	Dallas
El Paso	Pueblo
Fort Worth	Muskogee
Galveston	Oklahoma City

Houston	Tulsa
San Antonio	Savannah
Waco	Seattle
St. Louis	Spokane
Lincoln	Portland
Omaha	Los Angeles
Kansas City, Kans.	Oakland
Topeka	San Francisco
Wichita	Ogden
Helena	Salt Lake City
Denver	

The Board of Governors of the Federal Reserve System may at any time reclassify cities so designated as reserve and central reserve cities, may add to the number so classified, or terminate the designation of any cities as such.

(R.S. § 5191; Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CENTRAL RESERVE CITIES

Section 3(b)(1), (2), of Pub. L. 86-114, July 28, 1959, 73 Stat. 263, reclassified New York and Chicago as reserve cities and terminated the classification of central reserve city and the authority of the Board of Governors of the Federal Reserve System to classify or reclassify cities as central reserve cities, effective 3 years after July 28, 1959. See Central Reserve and Reserve Cities note, set out under this section.

CHANGE OF NAME

Act Aug. 23, 1935, changed name of the Federal Reserve Board to the Board of Governors of the Federal Reserve System.

CENTRAL RESERVE AND RESERVE CITIES

Section 3(b) of Pub. L. 86-114, July 28, 1959, 73 Stat. 263, provided that:

"Effective three years after the date of the enactment of this Act [July 28, 1959]—

"(1) New York and Chicago are reclassified as reserve cities under the Federal Reserve Act;

"(2) the classification 'central reserve city' under the Federal Reserve Act, and the authority of the Board of Governors of the Federal Reserve System to classify or reclassify cities as 'central reserve cities' under such Act, are terminated;

"(3) section 5192 of the Revised Statutes of the United States (12 U.S.C., sec. 144) is amended by striking out 'central reserve or';

"(4) section 2 of the Act of March 3, 1887 (ch. 378; 24 Stat. 560) is repealed;

"(5) the last paragraph of section 2 of the Federal Reserve act (12 U.S.C., sec. 224) is amended by striking out 'and central reserve cities';

"(6) section 11(e) of the Federal Reserve Act (12 U.S.C., sec. 248e) is amended by striking out 'and central reserve' each place it appears;

"(7) the third paragraph (lettered (a)) of section 19 of the Federal Reserve Act (12 U.S.C., sec. 462) is amended by striking out 'or central reserve';

"(8) the fifth paragraph (lettered (c)) of such section 19 is repealed;

"(9) subparagraph (2) of the sixth paragraph of such section 19 (as added by the first section of this Act) is amended by striking out 'and a member bank in a central reserve city may hold and maintain the reserve balances which are in effect under this section for member banks described in paragraph (a) or (b),';

"(10) the seventh paragraph of such section 19 is amended by striking out clauses (1), (2), (3), and (4) and inserting in lieu thereof the following: '(1) by member banks in reserve cities, (2) by member banks not in reserve cities, or (3) by all member banks'; and

"(11) the seventh paragraph of such section is further amended by striking out 'and central reserve cities'."

PRIOR PROVISIONS

R.S. § 5191 is derived from act June 3, 1864, ch. 106, § 31, 13 Stat. 108, which was the National Bank Act, and act Mar. 1, 1872, ch. 22, 17 Stat. 32. See section 38 of this title.

CROSS REFERENCES

List of Federal Reserve Banks and Branches, see note under section 222 of this title.

Power of Board of Governors of the Federal Reserve System to add to and reclassify reserve cities, see section 248 of this title.

Reserve cities unaffected by organization of reserve districts and Federal reserve cities, see section 224 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 142. Banks in reserve cities; reserves

National banking associations located in reserve cities or central reserve cities shall maintain reserves provided for in section 462 of this title for banks so located.

(R.S. § 5191; Dec. 23, 1913, ch. 6, §§ 19, 27, 38 Stat. 270, 274; Aug. 4, 1914, ch. 225, 38 Stat. 682; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, § 10, 40 Stat. 239.)

REFERENCES IN TEXT

Section 462 of this title, referred to in text has been omitted and is now covered by section 461 of this title.

PRIOR PROVISIONS

R.S. § 5191 is derived from act June 3, 1864, ch. 106, § 31, 13 Stat. 108, which was the National Bank Act, and act Mar. 1, 1872, ch. 22, 17 Stat. 32. See section 38 of this title.

TERMINATION OF CENTRAL RESERVE CITIES

Central reserve cities terminated, see section 3(b) of Pub. L. 86-114, July 28, 1959, 73 Stat. 263 set out as a note under section 141 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 143. Banks in Alaska and insular possessions; lawful money reserves

Every national banking association located in Alaska or in a dependency or insular possession or any part of the United States outside of the continental United States, and not a member of the Federal reserve system, shall at all times have on hand in lawful money of the United States an amount equal to at least 15 percent of the aggregate amount of its deposits in all respects. Whenever the lawful money of any such association shall fall below 15 percent of its deposits such association shall not increase its liabilities by making any new loans or discounts other than by discounting or purchasing bills of exchange payable at sight nor make any dividends of its profits until the required proportion between the aggregate amount of its deposits and its lawful money of the United States has been restored. And the Comptroller of the Currency shall notify any such associ-

ation whose lawful money reserve shall be below the amount required to be kept on hand to make good such reserve, and if such association shall fail for thirty days thereafter so to make good its lawful money the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of the association as provided in section 192 of this title.

(R.S. § 5191.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5191 is derived from act June 3, 1864, ch. 106, § 31, 13 Stat. 108, which was the National Bank Act, and act Mar. 1, 1872, ch. 22, 17 Stat. 32. See section 38 of this title.

CROSS REFERENCES

Banks in dependencies or insular possessions as members of the Federal Reserve System, see section 466 of this title.

§ 144. Certain balances counted toward reserves in dependencies and insular possessions

Four-fifths of the reserve of 15 per centum which a national bank located in a dependency or insular possession or any part of the United States outside of the continental United States, and not a member of the Federal Reserve System, is required to keep, may consist of balances due such bank from associations approved by the Comptroller of the Currency and located in any one of the reserve cities as now or hereafter defined by law or designated by the Board of Governors of the Federal Reserve System.

(R.S. § 5192; July 1, 1952, ch. 536, 66 Stat. 314; June 25, 1959, Pub. L. 86-70, § 7, 73 Stat. 142; July 28, 1959, Pub. L. 86-114, § 3(b)(3), 73 Stat. 263.)

AMENDMENTS

1959—Pub. L. 86-114 eliminated words "central reserve or" which preceded "reserve cities".

Pub. L. 86-70 eliminated words "in Alaska or" which preceded "in a dependency".

1952—Act July 1, 1952, reduced the required amount of cash on hand from two-fifths to one-fifth of the required reserve of 15 per cent.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86-114, set out as a note under section 141 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5192 is derived from act June 3, 1864, ch. 106, § 31, 13 Stat. 108, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Banks in dependencies or insular possessions as members of Federal Reserve System, see section 466 of this title.

§ 145. Treasury notes

Treasury notes issued in accordance with the provisions of this act, when held by any national banking association, may be counted as a part of its lawful reserve.

(July 14, 1890, ch. 708, § 2, 26 Stat. 289.)

REFERENCES IN TEXT

This act, referred to in text, means act July 14, 1890, ch. 708, 26 Stat. 289. Sections 2 and 6 of the act were classified to sections 122 and 145 of this title and sections 408, 410, and 453 of Title 31, Money and Finance. Section 1 of said act, which provided for the issuance of the Treasury notes mentioned in this section, and sections 3, 4, 5, and 7, have not been classified to the Code.

CODIFICATION

Section is based on the last clause of the first sentence of section 2 of act July 14, 1890. Other provisions of section 2 were classified to sections 408, 410, and 453 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 122 of this title.

§ 146. Gold and silver certificates

Gold certificates, issued under section 429 of title 31, as also silver certificates, when held by any national banking association, shall be counted as part of its lawful reserve; and no national banking association shall be a member of any clearing house in which such certificates shall not be receivable in the settlement of clearing-house balances. The provisions of section 582 of this title shall be applicable to such gold certificates.

(July 12, 1882, ch. 290, § 12, 22 Stat. 165.)

CROSS REFERENCES

Gold coinage discontinued, see section 315b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 178 of this title.

SUBCHAPTER IX—FORMATION OF ASSOCIATIONS TO ISSUE GOLD NOTES

§ 151. Organization of associations to issue gold notes

Associations may be organized in the manner prescribed by this chapter for the purpose of issuing notes payable in gold; and upon the deposit of any United States bonds bearing interest payable in gold with the Treasurer of the United States, in the manner prescribed for other associations, it shall be lawful for the Comptroller of the Currency to issue to the association making the deposit circulating notes of different denominations, but none of them of less than $5, and not exceeding in amount 80 per centum of the par value of the bonds deposited, which shall express the promise of the association to pay them, upon presentation at the office at which they are issued, in gold coin of the United States, and shall be so redeemable.

(R.S. § 5185; Jan. 19, 1875, ch. 19, 18 Stat. 302.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5185 is derived from act July 12, 1870, ch. 252, § 3, 16 Stat. 252.

CROSS REFERENCES

Coinage of gold discontinued, see section 315b of Title 31, Money and Finance.

Provision for payment of obligations in gold declared against public policy and prohibited in future notes, see section 463 of Title 31.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 152 of this title.

§ 152. Lawful money reserve of associations issuing gold notes; receiving notes of other associations

Every association organized under section 151 of this title shall at all times keep on hand not less than 25 per centum of its outstanding circulation, in gold or silver coin of the United States; and shall receive at par in the payment of debts the gold notes of every other such association which at the time of such payment is redeeming its circulating notes in gold coin of the United States, and shall be subject to all the provisions of this chapter: *Provided,* That, in applying the same to associations organized for issuing gold notes, the terms "lawful money" and "lawful money of the United States" shall be construed to mean gold or silver coin of the United States; and the circulation of such associations shall not be within the limitation of circulation mentioned in this chapter.

(R.S. § 5186.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

PRIOR PROVISIONS

R.S. § 5186 is derived from act July 12, 1870, ch. 252, §§ 3 to 5, 16 Stat. 252, 253.

CROSS REFERENCES

Coinage of gold discontinued, see section 315b of Title 31, Money and Finance.

Provision for payment of obligations in gold declared against public policy and prohibited in future notes, see section 463 of Title 31.

§ 153. Conversion of gold banks into currency banks

Any national gold bank organized under the provisions of the laws of the United States, may, in the manner and subject to the provisions prescribed by section 35 of this title, for the conversion of banks incorporated under the laws of any State, cease to be a gold bank, and become such an association as is authorized by section 21 of this title, for carrying on the business of banking, and shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects, as are by law prescribed for such associations: *Provided,* That all certificates of organization which shall be issued under this section shall bear the date of the original organization of each bank respectively as a gold bank.

(Feb. 14, 1880, ch. 25, 21 Stat. 66.)

SUBCHAPTER X—BANK EXAMINATIONS; REPORTS

§ 161. Reports to Comptroller of the Currency

(a) Reports of condition; forms; contents; date of making; publication

Every association shall make reports of condition to the Comptroller of the Currency in accordance with the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]. The Comptroller of the Currency may call for additional reports of condition, in such form and containing such information as he may prescribe, on dates to be fixed by him, and may call for special reports from any particular association whenever in his judgment the same are necessary for his use in the performance of his supervisory duties. Each report of condition shall contain a declaration by the president, a vice president, the cashier, or by any other officer designated by the board of directors of the bank to make such declaration, that the report is true and correct to the best of his knowledge and belief. The correctness of the report of condition shall be attested by the signatures of at least three of the directors of the bank other than the officer making such declaration, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct. Each report shall exhibit in detail and under appropriate heads the resources and liabilities of the association at the close of business on any past day specified by the Comptroller, and shall be transmitted to the Comptroller within ten days after the receipt of a request therefor from him; and the statement of resources and liabilities in the same form in which it is made to the Comptroller shall be published in a newspaper published in the place where such association is established, or if there is no newspaper in the place, then in the one published nearest thereto in the same county, at the expense of the association, and such proof of publication shall be furnished as may be required by the Comptroller. Special reports called for by the Comptroller need contain only such information as is specified by the Comptroller in his request therefor, and publication of such reports need be made only if directed by the Comptroller.

(b) Payment of dividends

Every association shall make to the Comptroller reports of the payment of dividends, including advance reports of dividends proposed to be declared or paid in such cases and under such conditions as the Comptroller deems necessary to carry out the purposes of the laws relating to national banking associations in such form and at such times as he may require.

(c) Reports of affiliates; form; contents; date of making; publication; penalties

Each national banking association shall obtain from each of its affiliates other than

member banks and furnish to the Comptroller of the Currency not less than four reports during each year, in such form as the Comptroller may prescribe, verified by the oath or affirmation of the president or such other officer as may be designated by the board of directors of such affiliate to verify such reports, disclosing the information hereinafter provided for as of dates identical with those for which the Comptroller shall during such year require the reports of the condition of the association. Each such report of an affiliate shall be transmitted to the Comptroller at the same time as the corresponding report of the association, except that the Comptroller may, in his discretion, extend such time for good cause shown. Each such report shall contain such information as in the judgment of the Comptroller of the Currency shall be necessary to disclose fully the relations between such affiliate and such bank and to enable the Comptroller to inform himself as to the effect of such relations upon the affairs of such bank. The reports of such affiliates shall be published by the association under the same conditions as govern its own condition reports. The Comptroller shall also have power to call for additional reports with respect to any such affiliate whenever in his judgment the same are necessary in order to obtain a full and complete knowledge of the conditions of the association with which it is affiliated. Such additional reports shall be transmitted to the Comptroller of the Currency in such form as he may prescribe. Any such affiliated bank which fails to obtain and furnish any report required under this section shall be subject to a penalty of $100 for each day during which such failure continues.

(R.S. § 5211; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252; Dec. 28, 1922, ch. 18, 42 Stat. 1067; Feb. 25, 1927, ch. 191, § 13, 44 Stat. 1232; June 16, 1933, ch. 89, § 27, 48 Stat. 191; Sept. 8, 1959, Pub. L. 86-230, §§ 11, 22(b), 73 Stat. 458, 466; July 14, 1960, Pub. L. 86-671, § 5, 74 Stat. 551; July 1, 1966, Pub. L. 89-485, § 13(d), 80 Stat. 243.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a), is classified to chapter 16 (§ 1811 et seq.) of this title.

AMENDMENTS

1966—Subsec. (c). Pub. L. 89-485 struck out the second sentence stating that the term "affiliate" shall include holding company affiliates as well as other affiliates.

1960—Subsec. (a). Pub. L. 86-671, § 5(a), designated existing provisions of former first par. as subsec. (a), substituted provisions relating to the making of reports of condition in accordance with the Federal Deposit Insurance Act and additional reports of condition containing declaration of officer for former provisions requiring minimum of three reports annually verified by an officer, added provisions respecting contents and publication of special reports and deleted requirement for making reports of payment of dividends, which is incorporated in subsec. (b) of this section.

Subsec. (b). Pub. L. 86-671, § 5(a), designated existing provisions of former first par. as subsec. (b).

Subsec. (c). Pub. L. 86-671, § 5(b), designated existing provisions of former second par. as subsec. (c) and substituted "four" for "three" in the first sentence.

1959—Pub. L. 86-230 required transmission of reports to the Comptroller within ten instead of five days and the making of reports of the payment of dividends including advance reports of dividends proposed to be declared or paid, respectively.

1933—Act June 16, 1933, added second par.

1927—Act Feb. 25, 1927, inserted "or of a vice-president, or of an assistant cashier of the association designated by its board of directors to verify such reports in the absence of the president and cashier, taken before a notary public properly authorized and commissioned by the State in which such notary resides and the association is located, or any other officer having an official seal, authorized in such State to administer oaths" in first sentence, and "and the statement of resources and liabilities together with acknowledgment and attestation", in second sentence.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-671 effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as a note under section 1817 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5211 is derived from act June 3, 1864, ch. 106, § 34, 13 Stat. 109, which was the National Bank Act, and act Mar. 3, 1869, ch. 130, § 1, 15 Stat. 326. See section 38 of this title.

CROSS REFERENCES

Comptroller not subject to provisions relating to coordination of Federal reports, see section 3507 of Title 44, Public Printing and Documents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 164 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 26-101, 26-308, 26-318 of the District of Columbia Code.

§ 162. Repealed. Pub. L. 86-671, § 6, July 14, 1960, 74 Stat. 552.

Section, act Feb. 26, 1881, ch. 82, 21 Stat. 352, prescribed the manner of verification of reports of condition of national banks and is now covered by section 1817 of this title.

EFFECTIVE DATE OF REPEAL

Repeal of section effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as a note under section 1817 of this title.

§ 163. Repealed. Pub. L. 86-230, § 22(a), Sept. 8, 1959, 73 Stat. 466

Section, R.S. § 5212, related to report of dividends and net earnings and is now covered by section 161 of this title.

§ 164. Penalty for failure to make reports

Every association which fails to make and transmit any report required under section 161 of this title shall be subject to a penalty of $100 for each day after the periods, respectively, therein mentioned, that it delays to make and transmit its report. Whenever any association delays or refuses to pay the penalty herein imposed, after it has been assessed by the Comptroller of the Currency, the amount thereof may be retained by the Treasurer of the United States, upon the order of the Comptroller of

the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation. All sums of money collected for penalties under this section shall be paid into the Treasury of the United States.

(R.S. § 5213; Pub. L. 86-230, § 12, Sept. 8, 1959, 73 Stat. 458.)

AMENDMENTS

1959—Pub. L. 86-230 substituted "section 161 of this title" for "either section 161 or 163 of this title".

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5213 is derived from act Mar. 3, 1869, ch. 130, §§ 1, 2, 15 Stat. 326, 327.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 26-101, 26-308 of the District of Columbia Code.

§ 165. Omitted

CODIFICATION

Section R.S. § 5241, related to limitation of visitorial powers, and is now covered by section 484 of this title.

SUBCHAPTER XI—MISCELLANEOUS PROVISIONS REGARDING UNITED STATES BONDS IN RELATION TO NATIONAL BANKS

§ 168. Taking up bonds; return of circulating notes

Any association that may desire to reduce its capital or to close up its business and dissolve its organization, may take up its bonds upon returning to the Comptroller its circulating notes in the proportion hereinafter required, or may take up any excess of bonds beyond one-third of its capital stock, and upon which no circulating notes have been delivered.

(R.S. § 5160.)

DEPOSIT OF BONDS

Provisions of R.S. § 5159, section 101a of this title, requiring national banking associations to maintain a minimum deposit of United States bonds with the Treasurer, were repealed by act June 21, 1917, ch. 32, § 9, 40 Stat. 239.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5160 is derived from act June 3, 1864, ch. 106, § 16, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 169 of this title.

§ 169. Exchange of coupon for registered bonds

To facilitate a compliance with section 168 of this title, the Secretary of the Treasury is authorized to receive from any association, and cancel, any United States coupon bonds, and to issue in lieu thereof registered bonds of like amount, bearing a like rate of interest, and having the same time to run.

(R.S. § 5161.)

REFERENCES IN TEXT

Section 168 of this title, referred to in text, in the original read "the two preceding sections", meaning sections 5159 and 5160 of the Revised Statutes, which are classified to sections 101a and 168, respectively, of this title. For current effect of section 101a, see Codification note set out under section 101a.

PRIOR PROVISIONS

R.S. § 5161 is derived from act June 3, 1864, ch. 106, § 16, 13 Stat. 104, which was the National Bank Act. See section 38 of this title.

§ 170. Transfers of bonds; manner of making

All transfers of United States bonds, made by any association under the provisions of this chapter, shall be made to the Treasurer of the United States in trust for the association, with a memorandum written or printed on each bond, and signed by the cashier, or some other officer of the association making the deposit. A receipt shall be given to the association, by the Comptroller of the Currency, or by a clerk appointed by him for that purpose, stating that the bond is held in trust, for the association on whose behalf the transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bond by the Treasurer shall be deemed valid unless countersigned by the Comptroller of the Currency.

The Comptroller of the Currency may designate one or more persons to countersign in his name and on his behalf such assignments or transfers of bonds as require his countersignature.

(R.S. § 5162; Aug. 23, 1935, ch. 614, § 313, 49 Stat. 711.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, added last par.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

PRIOR PROVISIONS

R.S. § 5162 is derived from act June 3, 1864, ch. 106, § 19, 13 Stat. 105, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Sale of bonds, conformance with formalities of this section and sections 171 and 172 of this title, see section 138 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 138, 176, 185 of this title.

§ 171. Registry of transferred bonds

The Comptroller of the Currency shall keep in his office a book in which he shall cause to be entered, immediately upon countersigning it, every transfer or assignment by the Treasurer, of any bonds belonging to a national banking association, presented for his signature. He shall state in such entry the name of the association from whose accounts the transfer is made, the name of the party to whom it is made, and the par value of the bonds transferred.

(R.S. § 5163.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

PRIOR PROVISIONS

R.S. § 5163 is derived from act June 3, 1864, ch. 106, §§ 19, 20, 13 Stat. 105, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Sale of bonds, conformance with formalities of this section and sections 170 and 172 of this title, see section 138 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 138, 173, 176 of this title.

§ 172. Notice of transfers

The Comptroller of the Currency shall, immediately upon countersigning and entering any transfer or assignment by the Treasurer, of any bonds belonging to a national banking association, advise by mail the association from whose accounts the transfer is made, of the kind and numerical designation of the bonds, and the amount thereof so transferred.

(R.S. § 5164.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

PRIOR PROVISIONS

R.S. § 5164 is derived from act June 3, 1864, ch. 106, § 19, 13 Stat. 105, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Sale of bonds, conformance with formalities of this section and sections 170 and 171 of this title, see section 138 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 138, 176 of this title.

§ 173. Examination of registry and bonds

The Comptroller of the Currency shall have at all times, during office hours, access to the books of the Treasurer of the United States for the purpose of ascertaining the correctness of any transfer or assignment of the bonds deposited by an association, presented to the Comptroller to countersign; and the Treasurer shall have the like access to the book mentioned in section 171 of this title, during office hours, to ascertain the correctness of the entries in the same; and the Comptroller shall also at all times have access to the bonds on deposit with the Treasurer, to ascertain their amount and condition.

(R.S. § 5165.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

PRIOR PROVISIONS

R.S. § 5165 is derived from act June 3, 1864, ch. 106, § 20, 13 Stat. 105, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Deposit of bonds, see section 101 of this title.

§ 174. Annual examination of bonds by associations

Every association having bonds deposited in the office of the Treasurer of the United States shall, once or oftener in each fiscal year, examine and compare the bonds pledged by the association with the books of the Comptroller of the Currency and with the accounts of the association, and, if they are found correct, to execute to the Treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the Treasurer at the date of the certificate. Such examination shall be made at such time or times, during the ordinary business hours, as the Treasurer and the Comptroller, respectively, may select, and may be made by an officer or agent of such association, duly appointed in writing for that purpose; and his certificate before mentioned shall be of like force and validity as if executed by the president or cashier. A duplicate of such certificate, signed by the Treasurer, shall be retained by the association.

(R.S. § 5166.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

PRIOR PROVISIONS

R.S. § 5166 is derived from act June 3, 1864, ch. 106, § 25, 13 Stat. 106, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Deposit of bonds, see section 101 of this title.

§ 175. Custody of bonds and collection of interest

The bonds transferred to and deposited with the Treasurer of the United States, by any association, for the security of its circulating notes, shall be held exclusively for that purpose, until such notes are redeemed, except as provided in this chapter. The Comptroller of the Currency shall give to any such association powers of attorney to receive and appropriate to its own use the interest on the bonds which

it has so transferred to the Treasurer; but such powers shall become inoperative whenever such association fails to redeem its circulating notes. Whenever the market or cash value of any bonds thus deposited with the Treasurer is reduced below the amount of the circulation issued for the same, the Comptroller may demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association, to be deposited with the Treasurer as long as such depreciation continues. And the Comptroller, upon the terms prescribed by the Secretary of the Treasury, may permit an exchange to be made of any of the bonds deposited with the Treasurer by any association, for other bonds of the United States authorized to be received as security for circulating notes, if he is of opinion that such an exchange can be made without prejudice to the United States; and he may direct the return of any bonds to the association which transferred the same, in sums of not less than $1,000, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided.* That the remaining bonds which shall have been transferred by the association offering to surrender circulating notes are equal to the amount required for the circulating notes not surrendered by such association, and that the amount of bonds in the hands of the Treasurer is not diminished below the amount required to be kept on deposit with him, and that there has been no failure by the association to redeem its circulating notes, nor any other violation by it of the provisions of this chapter, and that the market or cash value of the remaining bonds is not below the amount required for the circulation issued for the same.

(R.S. § 5167.)

REFERENCES IN TEXT

Words "this chapter" in section, see References in Text note under section 21 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

PRIOR PROVISIONS

R.S. § 5167 is derived from act June 3, 1864, ch. 106, § 26, 13 Stat. 107, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Deposit of bonds, see section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 101 of this title.

§ 176. Withdrawal of notes on deposit of money and withdrawal of bonds

Any association organized under this chapter, desiring to withdraw its circulating notes, in whole or in part, may, upon the deposit of lawful money with the Treasurer of the United States in sums of not less than $9,000, take up the bonds which said association has on deposit with the Treasurer for the security of such circulating notes; which bonds shall be assigned to the bank in the manner specified in sections 170 to 172 of this title; and the outstanding notes of said association, to an amount equal to the legal-tender notes deposited, shall be redeemed at the Treasury of the United States, and destroyed as now provided by law.

(June 20, 1874, ch. 343, § 4, 18 Stat. 124; June 21, 1917, ch. 32, § 9, 40 Stat. 239.)

REFERENCES IN TEXT

In the original "this chapter" reads "this act (act June 20, 1874) or any of the acts of which this is an amendment".

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Banks authorized to deposit lawful money and with consent of Comptroller and approval of Secretary of Treasury to withdraw a proportionate amount of the bonds held as security for its circulating notes, see section 178 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 178 of this title.

§ 177. Amount of bonds required on deposit; reduction of amount or retirement in full of circulating notes

National banks now organized, or hereafter organized, having a capital of $150,000, or less, shall not be required to keep on deposit or deposit with the Treasurer of the United States, United States bonds in excess of one-fourth of their capital stock as security for their circulating notes; but such banks shall keep on deposit or deposit with the Treasurer of the United States the amount of bonds as herein required. And such of those banks having on deposit bonds in excess of that amount are authorized to reduce their circulation by the deposit of lawful money as provided by law: *Provided,* That the national banks which shall hereafter make deposits of lawful money for the retirement in full of their circulation shall at the time of their deposit be assessed for the cost of transporting and redeeming their notes then outstanding, a sum equal to the average cost of the redemption of national bank notes during the preceding year, and shall thereupon pay such assessment. And all national banks which have heretofore made or shall after July 12, 1882, make deposits of lawful money for the reduction of their circulation shall be assessed and shall pay an assessment in the manner specified in section 121 of this title, for the cost of transporting and redeeming their notes redeemed from such deposits subsequently to June 30, 1881.

(July 12, 1882, ch. 290, § 8, 22 Stat. 164; Mar. 14, 1900, ch. 41, § 12, 31 Stat. 49; June 21, 1917, ch. 32, § 9, 40 Stat. 239.)

CODIFICATION

Provisions requiring national banking associations to maintain a minimum deposit of United States bonds with the Treasurer were repealed by act June 21, 1917. See note under section 101a of this title.

The proviso "That the amount of such circulating notes shall not in any case exceed ninety per centum of the par value of the bonds deposited as herein provided," contained in act of July 12, 1882, was omitted on the authority of act Mar. 14, 1900.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Definition of capital stock as used in this section, see section 51c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 51c, 177a, 178 of this title; title 31 section 455.

§ 177a. Simplification of Treasurer's accounts; funds available for cost of transporting and redeeming national and Federal Reserve bank notes

After the reimbursement to the Treasury from funds derived from assessments made pursuant to section 177 of this title, of all costs lawfully charged thereto for the fiscal year ending June 30, 1941, the balance of such funds shall be covered into the Treasury as miscellaneous receipts; and thereafter the cost of transporting and redeeming such outstanding national bank notes and Federal Reserve bank notes as may be presented to the Treasurer of the United States for redemption shall be paid from the regular annual appropriations for the Treasury Department.

(Oct. 10, 1940, ch. 841, 54 Stat. 1093.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

§ 178. Withdrawal of notes on deposit of money and withdrawal of bonds or other securities

Any national banking association now organized, or hereafter organized, desiring to withdraw its circulating notes, upon a deposit of lawful money with the Treasurer of the United States, as provided in section 176 of this title, or as provided in this section, sections 146 and 177 of this title, and section 429 of title 31, is authorized to deposit lawful money and, with the consent of the Comptroller of the Currency and the approval of the Secretary of the Treasury, withdraw a proportionate amount of the bonds held as security for its circulating notes in the order of such deposits: *Provided,* That not more than nine millions of dollars of lawful money shall be deposited during any calendar month for this purpose: *And provided further,* That the provisions of this section shall not apply to bonds called for redemption by the Secretary of the Treasury, nor to withdrawal of circulating notes in consequence thereof.

(July 12, 1882, ch. 290, § 9, 22 Stat. 164; Mar. 14, 1900, ch. 41, § 12, 31 Stat. 49; Mar. 4, 1907, ch. 2913, § 4, 34 Stat. 1290.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

SUBSTITUTION OF SECURITY

Act Mar. 14, 1900, provided that any national banking association might substitute two per centum bonds for any of the bonds deposited with the Treasurer to secure circulation or to secure deposits of public money.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 51c of this title; title 31 sections 313, 403, 455.

SUBCHAPTER XII—VOLUNTARY DISSOLUTION

§ 181. Voluntary dissolution; appointment and removal of liquidating agent or committee; examination

Any association may go into liquidation and be closed by the vote of its shareholders owning two-thirds of its stock. If the liquidation is to be effected in whole or in part through the sale of any of its assets to and the assumption of its deposit liabilities by another bank, the purchase and sale agreement must also be approved by its shareholders owning two-thirds of its stock unless an emergency exists and the Comptroller of the Currency specifically waives such requirement for shareholder approval.

The shareholders shall designate one or more persons to act as liquidating agent or committee, who shall conduct the liquidation in accordance with law and under the supervision of the board of directors, who shall require a suitable bond to be given by said agent or committee. The liquidating agent or committee shall render annual reports to the Comptroller of the Currency on the 31st day of December of each year showing the progress of said liquidation until the same is completed. The liquidating agent or committee shall also make an annual report to a meeting of the shareholders to be held on the date fixed in the articles of association for the annual meeting, at which meeting the shareholders may, if they see fit, by a vote representing a majority of the entire stock of the bank, remove the liquidating agent or committee and appoint one or more others in place thereof. A special meeting of the shareholders may be called at any time in the same manner as if the bank continued an active bank and at said meeting the shareholders may, by vote of the majority of the stock, remove the liquidating agent or committee. The Comptroller of the Currency is authorized to have an examination made at any time into the affairs of the liquidating bank until the claims of all creditors have been satisfied, and the expense of making such examinations shall be assessed against such bank in the same manner as in the case of examinations made pursuant to subchapter XV of chapter 3 of this title.

(R.S. § 5220; Aug. 23, 1935, ch. 614, § 317, 49 Stat. 712; Sept. 8, 1959, Pub. L. 86-230, § 15, 73 Stat. 458.)

REFERENCES IN TEXT

Subchapter XV [§ 481 et seq.] of chapter 3 of this title, referred to in the second par., was in the original a reference to section 5240 of the Revised Statutes.

AMENDMENTS

1959—Pub. L. 86-230 required shareholder approval of purchase and sale agreement where there is liquidation of a bank effected through sale of its assets and assumption of deposit liabilities and authorized waiver of such requirement in an emergency.

1935—Act Aug. 23, 1935, added second par.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this sec-

tion, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5220 is derived from act June 3, 1864, ch. 106, § 42, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

New banks organized by Federal Deposit Insurance Corporation after closing of old bank, non-application of this section to, see section 1821 of this title.

Notice of intent to dissolve, see section 182 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 186, 288, 1821 of this title.

§ 182. Notice of intent to dissolve

Whenever a vote is taken to go into liquidation it shall be the duty of the board of directors to cause notice of this fact to be certified, under the seal of the association, by its president or cashier, to the Comptroller of the Currency, and publication thereof to be made for a period of two months in every issue of a newspaper published in the city or town in which the association is located, or if no newspaper is there published, then in the newspaper published nearest thereto, that the association is closing up its affairs, and notifying its creditors to present their claims against the association for payment.

(R.S. § 5221; Aug. 9, 1955, ch. 626, 69 Stat. 546.)

AMENDMENTS

1955—Act Aug. 9, 1955, eliminated provisions relating to publication in a newspaper published in the City of New York, and notification to holders of national bank notes to present them for payment.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5221 is derived from act June 3, 1864, ch. 106, § 42, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

New banks organized by Federal Deposit Insurance Corporation after closing of old bank, non-application of this section to, see section 1821 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 186, 1821 of this title.

§ 183. Deposit of money to redeem outstanding circulation

Within six months from the date of the vote to go into liquidation, the association shall deposit with the Treasurer of the United States, lawful money of the United States sufficient to redeem all its outstanding circulation. The Treasurer shall execute duplicate receipts for money thus deposited, and deliver one to the association and the other to the Comptroller of the Currency, stating the amount received by him, and the purpose for which it has been received; and the money shall be paid into the Treasury of the United States, and placed to the credit of such association upon redemption account.

(R.S. § 5222.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

PRIOR PROVISIONS

R.S. § 5222 is derived from act June 3, 1864, ch. 106, §§ 42, 43, 13 Stat. 112, which was the National Bank Act, and act July 14, 1870, ch. 257, 16 Stat. 274. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 186 of this title.

§ 184. Exemption as to an association consolidating with another

An association which is in good faith winding up its business for the purpose of consolidating with another association shall not be required to deposit lawful money for its outstanding circulation; but its assets and liabilities shall be reported by the association with which it is in process of consolidation.

(R.S. § 5223.)

PRIOR PROVISIONS

R.S. § 5223 is derived from act July 14, 1870, ch. 257, 16 Stat. 274.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 186 of this title.

§ 185. Reassignment of bonds and redemption of notes

Whenever a sufficient deposit of lawful money to redeem the outstanding circulation of an association proposing to close its business has been made, the bonds deposited by the association to secure payment of its notes shall be reassigned to it, in the manner prescribed by section 170 of this title. And thereafter the association and its shareholders shall stand discharged from all liabilities upon the circulating notes, and those notes shall be redeemed at the Treasury of the United States. And if any such bank shall fail to make the deposit and take up its bonds for thirty days after the expiration of the time specified, the Comptroller of the Currency shall have power to sell the bonds pledged for the circulation of said bank, at public auction in New York City, and, after providing for the redemption and cancellation of said circulation and the necessary expenses of the sale, to pay over any balance remaining to the bank or its legal representative.

(R.S. § 5224; Feb. 18, 1875, ch. 80, § 1, 18 Stat. 320.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5224 is derived from act June 3, 1864, ch. 106, § 42, 13 Stat. 112, which was the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 186 of this title.

§ 186. Destruction of redeemed notes

Whenever the Treasurer has redeemed any of the notes of an association which has commenced to close its affairs under sections 181 to 185 of this title, he shall cause the notes to be mutilated and charged to the redemption account of the association; and all notes so redeemed by the Treasurer shall, every three months, be certified to and macerated in the manner prescribed in section 124 of this title.

(R.S. § 5225; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 252.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

PRIOR PROVISIONS

R.S. § 5225 is derived from act June 3, 1864, ch. 106, § 43, 13 Stat. 112, which was part of the National Bank Act. See section 38 of this title.

SUBCHAPTER XIII—RECEIVERSHIP

§ 191. General grounds for appointment of receiver

Whenever any national banking association shall be dissolved, and its rights, privileges, and franchises declared forfeited, as prescribed in section 93 of this title, or whenever any creditor of any national banking association shall have obtained a judgment against it in any court of record, and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the comptroller shall become satisfied of the insolvency of a national banking association, he may, after due examination of its affairs, in either case, appoint a receiver, who shall proceed to close up such association.

(June 30, 1876, ch. 156, § 1, 19 Stat. 63; Sept. 8, 1959, Pub. L. 86-230, § 16, 73 Stat. 458.)

AMENDMENTS

1959—Pub. L. 86-230 eliminated provisions which required receiver to enforce the personal liability of shareholders.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 197 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

§ 192. Default in payment of circulating notes

On becoming satisfied, as specified in sections 131 and 132 of this title, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he deems proper. Such receiver, under the direction of the comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, may sell all the real and personal property of such association, on such terms as the court shall direct. Such receiver shall pay over all money so made to the Treasurer of the United States, subject to the order of the Comptroller, and also make report to the Comptroller of all his acts and proceedings.

Provided, That the Comptroller may, if he deems proper, deposit any of the money so made in any regular Government depositary, or in any State or national bank either of the city or town in which the insolvent bank was located or of a city or town as adjacent thereto as practicable; if such deposit is made he shall require the depositary to deposit United States bonds or other satisfactory securities with the Treasurer of the United States for the safekeeping and prompt payment of the money so deposited: *Provided,* That no security in the form of deposit of United States bonds, or otherwise, shall be required in the case of such parts of the deposits as are insured under section 12B of the Federal Reserve Act, as amended. Such depositary shall pay upon such money interest at such rate as the Comptroller may prescribe, not less, however, than 2 per centum per annum upon the average monthly amount of such deposits.

(R.S. § 5234; May 15, 1916, ch. 121, 39 Stat. 121; Aug. 23, 1935, ch. 614, § 339, 49 Stat. 721; Sept. 8, 1959, Pub. L. 86-230, § 17, 73 Stat. 458.)

REFERENCES IN TEXT

Section 12B of the Federal Reserve Act, as amended, referred to in text, formerly classified to section 264 of this title, has been withdrawn from the Federal Reserve Act and incorporated in the Federal Deposit Insurance Act which is classified to chapter 16 (§ 1811 et seq.) of this title.

AMENDMENTS

1959—Pub. L. 86-230 eliminated provisions which required receiver to enforce the personal liability of shareholders.

1935—Act Aug. 23, 1935, added second proviso in second par.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

INTEREST ON DEPOSITS

So much of existing law requiring the payment of interest with respect to any funds deposited by the United States or by any public instrumentality, agency, or officer thereof, as is inconsistent with sections 371a, 371b, 374, 374a, 461, former sections 462 to 465, and section 466 of this title, repealed, see section 371a of this title.

PRIOR PROVISIONS

R.S. § 5234 is derived from act June 3, 1864, ch. 106, § 50, 13 Stat. 114, which was part of the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Certifying check when amount of deposit was inadequate, proceedings under this section, see section 501 of this title.

Failure to pay up capital stock, appointment of receiver under this section, see section 55 of this title.

Failure to sell or dispose of own capital stock acquired as security or by purchase, appointment of receiver under this section, see section 83 of this title.

Individual liability of shareholders, limitation on liability, see section 64a of this title.

Money reserve falling below required amount in banks in Alaska and insular possessions, appointment of receiver under this section, see section 143 of this title.

Payment of interest on demand deposits, see section 371a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 55, 83, 143, 197, 481, 501 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

§ 193. Notice to present claims

The Comptroller shall, upon appointing a receiver, cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof.

(R.S. § 5235.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

PRIOR PROVISIONS

R.S. § 5235 is derived from act June 3, 1864, ch. 106, § 50, 13 Stat. 114, which was part of the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1821, 1823 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

§ 194. Dividends on adjusted claims; distribution of assets

From time to time, after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association, the comptroller shall make a ratable dividend of the money so paid over to him by such receiver on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction, and, as the proceeds of the assets of such association are paid over to him, shall make further dividends on all claims previously proved or adjudicated; and the remainder of the proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held.

(R.S. § 5236.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc. in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

PRIOR PROVISIONS

R.S. § 5236 is derived from act June 3, 1864, ch. 106, § 50, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Preferential rights of preferred stock on liquidation, see section 51b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 197 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

§ 195. Injunction by bank denying failure to redeem notes

Whenever an association against which proceedings have been instituted, on account of any alleged refusal to redeem its circulating notes as aforesaid, denies having failed to do so, it may, at any time within ten days after it has been notified of the appointment of an agent, as provided in section 132 of this title, apply to the nearest district or territorial court of the United States to enjoin further proceedings in the premises; and such court, after citing the Comptroller of the Currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the comptroller, and any receiver acting under

his direction, from all further proceedings on account of such alleged refusal.

(R.S. § 5237; Mar. 3, 1911, ch. 231, § 289, 36 Stat. 1167.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5237 is derived from act June 3, 1864, ch. 106, § 50, 13 Stat. 114, which was the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Jurisdiction of suits to enjoin comptroller or receiver, regardless of amount in controversy, see section 1348 of Title 28, Judiciary and Judicial Procedure.

§ 196. Fees and expenses

All fees for protesting the notes issued by any national banking association shall be paid by the person procuring the protest to be made, and such association shall be liable therefor; but no part of the bonds deposited by such association shall be applied to the payment of such fees. All expenses of any preliminary or other examinations into the condition of any association shall be paid by such association. All expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

(R.S. § 5238.)

PRIOR PROVISIONS

R.S. § 5238 is derived from act June 3, 1864, ch. 106, § 51, 13 Stat. 115, which was the National Bank Act. See section 38 of this title.

§ 197. Shareholders' meeting; continuance of receivership; appointment of agent; winding up business; distribution of assets

(a) Whenever any national banking association shall have been or shall be placed in the hands of a receiver, as provided in section fifty-two hundred and thirty-four [12 U.S.C. 192] and other sections of the Revised Statutes of the United States and section 1821(c) of this title, and when, as provided in section 194 of this title, there has been paid to each and every creditor of such association whose claim or claims as such creditor shall have been proved or allowed as therein prescribed, the full amount of such claims, and all expenses of the receivership, the Comptroller of the Currency or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the bank, shall call a meeting of the shareholders of the association by giving notice thereof for thirty days in a newspaper published in the town, city, or county where the business of the association was carried on, or if no newspaper is there published, in the newspaper published nearest thereto. At such meeting the shareholders shall determine whether the receiver shall be continued and shall wind up the affairs of the association, or whether an agent shall be elected for that purpose, and in so determining the shareholders shall vote by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the majority of the stock in number of shares shall be necessary to determine whether the receiver shall be continued, or whether an agent shall be elected. In case such majority shall determine that the receiver shall be continued, the receiver shall thereupon proceed with the execution of the trust, and shall sell, dispose of, or otherwise collect the assets of the association, and shall possess all the powers and authority, and be subject to all the duties and liabilities originally conferred or imposed upon such receiver so far as they remain applicable. In case such meeting shall, by the vote of a majority of the stock in number of shares, determine that an agent shall be elected, the meeting shall thereupon proceed to elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and the person who shall receive votes representing at least a majority of stock in number of shares shall be declared the agent for the purposes hereinafter provided; and when such agent shall have executed a bond to the shareholders conditioned for the payment and discharge in full or, to the extent possible from the remaining assets of the association, of each and every claim that may thereafter be proved and allowed by and before a competent court and for the faithful performance of his duties, in the penalty fixed by the shareholders at such meeting, with a surety or sureties to be approved by the district court of the United States for the district where the business of the association was carried on, and shall have filed such bond in the office of the clerk of such court, the Comptroller and the receiver, or the Federal Deposit Insurance Corporation, where that Corporation has been appointed receiver of the bank, shall thereupon transfer and deliver to such agent all the uncollected or other assets of the association then remaining in the hands or subject to the order and control of the Comptroller and such receiver, or either of them, or the Federal Deposit Insurance Corporation; and for this purpose the Comptroller and such receiver, or the Federal Deposit Insurance Corporation, as the case may be, are severally empowered and directed to execute any deed, assignment, transfer, or other instrument in writing that may be necessary and proper; and upon the execution and delivery of such instrument to such agent the Comptroller and such receiver or the Federal Deposit Insurance Corporation shall by virtue of this section, sections 55, 65, and 191 of this title, and section 424 of title 31 be discharged from any and all liabilities to the association and to each and all the creditors and shareholders thereof.

(b) Upon receiving such deed, assignment, transfer, or other instrument the person elected such agent shall hold, control, and dispose of the assets and property of the association which he may receive under the terms hereof for the benefit of the shareholders of the association, and he may in his own name, or in the name of the association, sue and be sued and do all other lawful acts and things necessary to finally settle and distribute the assets and property in his hands, and may sell, compromise, or compound the debts due to the association, with the consent and approval of the district

court of the United States for the district where the business of the association was carried on, and shall at the conclusion of his trust render to such district court a full account of all his proceedings, receipts, and expenditures as such agent, which court shall, upon due notice, settle and adjust such accounts and discharge such agent and sureties upon such bond. In case any such agent so elected shall die, resign, or be removed, any shareholder may call a meeting of the shareholders of the association in the town, city, or village where the business of the association was carried on, by giving notice thereof for thirty days in a newspaper published in such town, city, or village, or if no newspaper is there published, in the newspaper published nearest thereto, at which meeting the shareholders shall elect an agent, voting by ballot, in person or by proxy, each share of stock entitling the holder to one vote, and when such agent shall have received votes representing at least a majority of the stock in number of shares, and shall have executed a bond to the shareholders conditioned for the payment and discharge in full or, to the extent possible from the remaining assets of the association, of each and every claim that may thereafter be proved and allowed by and before a competent court and for the faithful performance of his duties, in the penalty fixed by the shareholders at such meeting, with a surety or sureties, to be approved by such court, and file such bond in the office of the clerk of that court, he shall have all the rights, powers, and duties of the agent first elected as hereinbefore provided. At any meeting held as hereinbefore provided administrators or executors of deceased shareholders may act and sign as the decedent might have done if living, and guardians of minors and trustees of other persons may so act and sign for their ward or wards or cestui que trust. The proceeds of the assets or property of any such association which may be undistributed at the time of such meeting or may be subsequently received shall be distributed as follows:

First. To pay the expenses of the execution of the trust to the date of such payment.

Second. To repay any amount or amounts which have been paid in by any shareholder or shareholders of the association upon and by reason of any and all assessments made upon the stock of the association by order of the Comptroller of the Currency in accordance with the provisions of the statutes of the United States.

Third. To pay the balance ratably among such stockholders, in proportion to the number of shares held and owned by each. Such distribution shall be made from time to time as the proceeds shall be received and as shall be deemed advisable by the Comptroller of the Currency, or the Federal Deposit Insurance Corporation if continued as receiver of the bank under subsection (a) of this section, or such agent, as the case may be.

(June 30, 1876, ch. 156, § 3, 19 Stat. 63; Aug. 3, 1892, ch. 360, 27 Stat. 345; Mar. 2, 1897, ch. 354, 29 Stat. 600; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Sept. 8, 1959, Pub. L. 86-230, § 18, 73 Stat. 458.)

REFERENCES IN TEXT

Section fifty-two hundred and thirty-four and other sections of the Revised Statutes of the United States, referred to in subsec. (a), are classified to section 192 of this title and other sections of the Code. See Revised Titles table in Tables volume.

Section 65 of this title, referred to in subsec. (a), was repealed by Pub. L. 86-230, § 8, Sept. 8, 1959, 73 Stat. 457.

AMENDMENTS

1959—Subsec. (a). Pub. L. 86-230 designated former first par., less last sentence, as subsec. (a), and incorporated references to Federal Deposit Insurance Corporation respecting receiverships under section 1821(c) of this title, convocation of shareholders, transfer of assets, execution of instruments and discharge from liability, omitted provision for deposit of money with the Treasurer of the United States for the redemption of the circulating notes of the association, and for the value of shares as a test to determine whether a majority vote has been cast in a stockholders' meeting, required the windup agent to file a bond to the shareholders in an amount satisfactory to them with sureties approved by appropriate district court instead of a bond from the shareholders satisfactory to the Comptroller and to condition the bond to payment of proved claims to the extent possible from the remaining instead of payment of the claims in full, only.

Subsec. (b). Pub. L. 86-230 designated former last sentence of first par. and second par., as subsec. (b), and omitted provisions which related to refusal of agent to serve as a ground for the calling of an election of another agent, to the value of shares as a test to determine whether a majority vote has been cast in a stockholders' meeting, required the bond of the windup agent to be conditioned for payment of proved claims to the extent possible from the remaining assets instead of payment of the claims in full, only, and provided for the distribution of the balance as shall be deemed advisable by the Federal Deposit Insurance Corporation.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

Act Mar. 3, 1911, conferred upon the district courts all powers formerly vested in the former circuit courts.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

§ 197a. Resumption of business by closed bank on consent of depositors

In any case in which, in the opinion of the Comptroller of the Currency, it would be to the advantage of the depositors and unsecured creditors of any national banking association whose business has been closed, for such association to resume business upon the retention by the association, for a reasonable period to be prescribed by the Comptroller, of all or any part of its deposits, the Comptroller is authorized, in his discretion, to permit the association to resume business if depositors and unsecured creditors of the association representing at least 75 per centum of its total deposit and unsecured credit liabilities consent in writing to such retention of deposits. Nothing in this section shall be construed to affect in any manner

any powers of the Comptroller under the provisions of law in force on June 16, 1933, with respect to the reorganization of national banking associations.

(June 16, 1933, ch. 89, § 29, 48 Stat. 193.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 198. Purchase by receiver of property of bank; request to Comptroller

Whenever the receiver of any national bank duly appointed by the Comptroller of the Currency, and who shall have duly qualified and entered upon the discharge of his trust, shall find it in his opinion necessary, in order to fully protect and benefit his said trust, to the extent of any and all equities that such trust may have in any property, real or personal, by reason of any bond, mortgage, assignment, or other proper legal claim attaching thereto, and which said property is to be sold under any execution, decree of foreclosure, or proper order of any court of jurisdiction, he may certify the facts in the case, together with his opinion as to the value of the property to be sold, and the value of the equity his said trust may have in the same, to the Comptroller of the Currency, together with a request for the right and authority to use and employ so much of the money of said trust as may be necessary to purchase such property at such sale.

(Mar. 29, 1886, ch. 28, § 1, 24 Stat. 8.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

§ 199. Approval of request

Such request, if approved by the Comptroller of the Currency, shall be, together with the certificate of facts in the case, and his recommendation as to the amount of money which, in his judgment, should be so used and employed, submitted to the Secretary of the Treasury, and if the same shall likewise be approved by him, the request shall be by the Comptroller of the Currency allowed, and notice thereof, with copies of the request, certificate of facts, and indorsement of approvals, shall be filed with the Treasurer of the United States.

(Mar. 29, 1886, ch. 28, § 2, 24 Stat. 8.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

§ 200. Payment

Whenever any such request shall be allowed as hereinbefore provided, the said Comptroller of the Currency shall be, and is, empowered to draw upon and from such funds of any such trust as may be deposited with the Treasurer of the United States for the benefit of the bank in interest, to the amount as may be recommended and allowed and for the purpose for which such allowance was made: *Provided, however,* That all payments to be made for or on account of the purchase of any such property and under any such allowance shall be made by the Comptroller of the Currency direct, with the approval of the Secretary of the Treasury, for such purpose only and in such manner as he may determine and order.

(Mar. 29, 1886, ch. 28, § 3, 24 Stat. 8.)

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

APPLICATION TO DISTRICT OF COLUMBIA

Provisions of this section were made applicable to banks, etc., in the District of Columbia by act Mar. 4, 1933, ch. 274, § 4, 47 Stat. 1567 (D.C. Code, § 26-104).

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-104 of the District of Columbia Code.

SUBCHAPTER XIV—BANK CONSERVATION ACT

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 31 section 824.

§ 201. Short title

This subchapter may be cited as the "Bank Conservation Act."

(Mar. 9, 1933, ch. 1, title II, § 201, 48 Stat. 2.)

CROSS REFERENCES

Right to amend, separability of provisions, and ratification of acts done under sections 201 to 211 of this title, see sections 212 and 213 of this title.

§ 202. Definitions

As used in this subchapter, the term "bank" means (1) any national banking association, and (2) any bank or trust company located in the District of Columbia and operating under the supervision of the Comptroller of the Currency; and the term "State" means any State, Territory, or possession of the United States, and the Canal Zone.

(Mar. 9, 1933, ch. 1, title II, § 202, 48 Stat. 2.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 203. Conservator; appointment, powers, and duties; compensation

Whenever he shall deem it necessary in order to conserve the assets of any bank for the benefit of the depositors and other creditors thereof, the Comptroller of the Currency may appoint a conservator for such bank and require of him such bond and security as the Comptroller of the Currency deems proper. The conservator, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such bank, and take such action as may be necessary to conserve the assets of such bank pending further disposition of its business as provided by law. Such conservator shall have all the rights, powers, and privileges now possessed by or hereafter given receivers of insolvent national banks and shall be subject to the obligations and penalties, not inconsistent with the provisions of this subchapter, to which receivers are now or may hereafter become subject. During the time that such conservator remains in possession of such bank, the rights of all parties with respect thereto shall, subject to the other provisions of this subchapter, be the same as if a receiver had been appointed therefor. All expenses of any such conservatorship shall be paid out of the assets of such bank and shall be a lien thereon which shall be prior to any other lien provided by this Act or otherwise. The conservator shall receive as salary an amount no greater than that paid to employees of the Federal Government for similar services.

(Mar. 9, 1933, ch. 1, title II, § 203, 48 Stat. 2.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 9, 1933, ch. 1, 48 Stat. 1, popularly known as the Emergency Banking and Bank Conservation Act, which is classified to sections 51a, 51b, 51c, 51d, 94 to 95b, 201 to 212, 248, 347b, 347c, 347d, 445 of this title and to section 5 of title 50 App., War and National Defense.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

CONSERVATORS OF STATE BANKS

Ex. Ord. No. 6080, Mar. 18, 1933, provided for appointment of conservators of State banks under certain regulations.

§ 204. Examination of banks in hands of conservator

The Comptroller of the Currency shall cause to be made such examinations of the affairs of such bank as shall be necessary to inform him as to the financial condition of such bank, and the examiner shall make a report thereon to the Comptroller of the Currency at the earliest practicable date.

(Mar. 9, 1933, ch. 1, title II, § 204, 48 Stat. 3.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 205. Termination of conservatorship; resumption of business

If the Comptroller of the Currency becomes satisfied that it may safely be done and that it would be in the public interest, he may, in his discretion, terminate the conservatorship and permit such bank to resume the transaction of its business subject to such terms, conditions, restrictions and limitations as he may prescribe.

(Mar. 9, 1933, ch. 1, title II, § 205, 48 Stat. 3.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 206. Withdrawals and deposits during conservatorship

While such bank is in the hands of the conservator appointed by the Comptroller of the Currency, the Comptroller may require the conservator to set aside and make available for withdrawal by depositors and payment to other creditors, on a ratable basis, such amounts as in the opinion of the Comptroller may safely be used for this purpose; and the Comptroller may, in his discretion, permit the conservator to receive deposits, but deposits received while the bank is in the hands of the conservator shall not be subject to any limitation as to payment or withdrawal, and such deposits shall be segregated and shall not be used to liquidate any indebtedness of such bank existing at the time that a conservator was appointed for it, or any subsequent indebtedness incurred for the purpose of liquidating any indebtedness of such bank existing at the time such conservator was appointed. Such deposits received while the bank is in the hands of the conservator shall be kept on hand in cash, invested in the direct obligations of the United States, or deposited with a Federal reserve bank. The Federal reserve banks are authorized to open and maintain separate deposit accounts for such purpose, or for the purpose of receiving deposits from State officials in charge of State banks under similar circumstances.

(Mar. 9, 1933, ch. 1, title II, § 206, 48 Stat. 3.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 208 of this title.

§ 207. Reorganization; consent of depositors and creditors

In any reorganization of any bank under a plan of a kind which, under existing law, requires the consent, as the case may be, (a) of depositors and other creditors or (b) of stockholders or (c) of both depositors and other creditors and stockholders, such reorganization shall become effective only (1) when the Comptroller of the Currency shall be satisfied that the plan of reorganization is fair and equitable as to all depositors, other creditors and stockholders and is in the public interest and shall have approved the plan subject to such conditions, restrictions, and limitations as he may prescribe and (2) when, after reasonable notice of such reorganization, as the case may require, (A) depositors and other creditors of such bank representing at least 75 percent in amount of its total deposits and other liabilities as shown by the books of the bank or (B) stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the bank or (C) both depositors and other creditors representing at least 75 percent in amount of the total deposits and other liabilities and stockholders owning at least two-thirds of its outstanding capital stock as shown by the books of the bank, shall have consented in writing to the plan of reorganization: *Provided, however,* That claims of depositors or other creditors which will be satisfied in full under the provisions of the plan of reorganization shall not be included among the total deposits and other liabilities of the bank in determining the 75 percent thereof as above provided. When such reorganization becomes effective, all books, records, and assets of the bank shall be disposed of in accordance with the provisions of the plan and the affairs of the bank shall be conducted by its board of directors in the manner provided by the plan and under the conditions, restrictions and limitations which may have been prescribed by the Comptroller of the Currency. In any reorganization which shall have been approved and shall have become effective as provided herein, all depositors and other creditors and stockholders of such bank, whether or not they shall have consented to such plan of reorganization, shall be fully and in all respects subject to and bound by its provisions, and claims of all depositors and other creditors shall be treated as if they had consented to such plan of reorganization.

(Mar. 9, 1933, ch. 1, title II, § 207, 48 Stat. 3; May 20, 1933, ch. 34, 48 Stat. 72.)

AMENDMENTS

1933—Act May 20, 1933, substituted "bank" for "national banking association" throughout section.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 208 of this title.

§ 208. Provisions as to segregation of deposits inapplicable after termination of conservatorship; notice of termination

After fifteen days after the affairs of a bank shall have been turned back to its board of directors by the conservator, either with or without a reorganization as provided in section 207 of this title, the provisions of section 206 of this title with respect to the segregation of deposits received while it is in the hands of the conservator and with respect to the use of such deposits to liquidate the indebtedness of such bank shall no longer be effective: *Provided,* That before the conservator shall turn back the affairs of the bank to its board of directors he shall cause to be published in a newspaper published in the city, town or county in which such bank is located, and if no newspaper is published in such city, town, or county, in a newspaper to be selected by the Comptroller of the Currency published in the State in which the bank is located, a notice in form approved by the Comptroller, stating the date on which the affairs of the bank will be returned to its board of directors and that the said provisions of section 206 of this title will not be effective after fifteen days after such date; and on the date of the publication of such notice the conservator shall immediately send to every person who is a depositor in such bank under section 206 of this title a copy of such notice by registered mail addressed to the last known address of such person as shown by the records of the bank, and the conservator shall send similar notice in like manner to every person making deposit in such bank under section 206 of this title after the date of such newspaper publication and before the time when the affairs of the bank are returned to its directors.

(Mar. 9, 1933, ch. 1, title II, § 208, 48 Stat. 4.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 209. Conservators subject to certain sections of title 18

Conservators appointed pursuant to the provisions of this subchapter shall be subject to the provisions of and to the penalties prescribed by sections 334, 656, and 1005 of title 18; and sections 202, 216, 281, 431, 432, and 433 of title 18, in so far as applicable, are extended to apply to contracts, agreements, proceedings, dealings, claims and controversies by or with any such conservator or the Comptroller of the Currency under the provisions of this subchapter.

(Mar. 9, 1933, ch. 1, title II, § 209, 48 Stat. 5; Sept. 3, 1954, ch. 1263, § 23, 68 Stat. 1234.)

REFERENCES IN TEXT

Section 281, referred to in text, was repealed by Pub. L. 87-849, § 2, Oct. 23, 1962, 76 Stat. 116, but still continues to apply to retired officers of the Armed Forces of the United States.

AMENDMENTS

1954—Act Sept. 3, 1954, corrected references to title 18.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 210. Governmental powers unimpaired

Nothing in this subchapter shall be construed to impair in any manner any powers of the President, the Secretary of the Treasury, the Comptroller of the Currency, or the Board of Governors of the Federal Reserve System.

(Mar. 9, 1933, ch. 1, title II, § 210, 48 Stat. 5; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 824.

§ 211. Rules and regulations; penalties for violations

The Comptroller of the Currency is authorized and empowered, with the approval of the Secretary of the Treasury, to prescribe such rules and regulations as he may deem necessary in order to carry out the provisions of this subchapter. Whoever violates any rule or regulation made pursuant to this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than one year, or both.

(Mar. 9, 1933, ch. 1, title II, § 211, 48 Stat. 5.)

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

Misdemeanor, offense punishable by imprisonment not exceeding one year as, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 212. Right to amend; separability of provisions

The right to alter, amend, or repeal this Act is expressly reserved. If any provision of this Act, or the application there of to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(Mar. 9, 1933, ch. 1, title V, § 502, 48 Stat. 7.)

REFERENCES IN TEXT

This Act, referred to in text, is act Mar. 9, 1933, ch. 1, 48 Stat. 1, popularly known as the Emergency Banking and Bank Conservation Act, which is classified to sections 51a, 51b, 51c, 51d, 95 to 95b, 201 to 212, 248, 347b, 347c, 347d, 445 of this title and to section 5 of title 50 App., War and National Defense.

Section 51d of this title was repealed by act June 30, 1947, ch. 166, title II, § 206(b), (o), 61 Stat. 208. For effect of the repeal on outstanding debentures held by banks, see References in Text note under section 51b-1 of this title.

CODIFICATION

This section was not enacted as a part of title II of act Mar. 9, 1933, ch. 1, 48 Stat. 2, which comprises this subchapter.

§ 213. Transferred

Section transferred to section 824 of Title 31, Money and Finance.

SUBCHAPTER XV—CONVERSION OF NATIONAL BANKS INTO STATE BANKS

§ 214. Definitions

(a) As used in this subchapter and section 321 of this title the term "State bank" means any bank, banking association, trust company, savings bank (other than a mutual savings bank), or other banking institution which is engaged in the business of receiving deposits and which is incorporated under the laws of any State, any Territory of the United States, Puerto Rico, or the Virgin Islands, or which is operating under the Code of Law for the District of Columbia (except a national banking association).

(b) For purposes of merger or consolidation under this subchapter and section 321 of this title the term "national banking association" means one or more national banking associations, and the term "State bank" means one or more State banks.

(Aug. 17, 1950, ch. 729, ch. 729, § 1, 64 Stat. 455; Sept. 3, 1954, ch. 1263, § 24, 68 Stat. 1234.)

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "this subchapter and section 321 of this title" for "sections 214 to 214c, 264(e)(2), (i)(2), (v)(4), and 321 of this title" wherever appearing.

SEPARABILITY OF PROVISIONS

Section 9 of act Aug. 17, 1950, provided that: "If any provision of this Act [this subchapter and amendments of former sections 264(e)(2), (i)(2), (v)(4), and section 321 of this title], or the application thereof to any person or circumstance, is held invalid, the remainder of the Act [said sections] and the application of such provision to other persons or circumstances shall not be affected thereby."

CROSS REFERENCES

Consolidation of state bank with national bank under charter of such national bank, see section 215 of this title.

Conversation of state bank into national bank, see sections 215 to 215b of this title.

§ 214a. Procedure for conversion, merger, or consolidation; vote of stockholders

A national banking association may, by vote of the holders of at least two-thirds of each class of its capital stock, convert into, or merge

or consolidate with, a State bank in the same State in which the national banking association is located, under a State charter, in the following manner:

(a) Approval of board of directors; publication of notice of stockholders' meeting; waiver of publication; notice by registered or certified mail

The plan of conversion, merger, or consolidation must be approved by a majority of the entire board of directors of the national banking association. The bank shall publish notice of the time, place, and object of the shareholders' meeting to act upon the plan, in some newspaper with general circulation in the place where the principal office of the national banking association is located, at least once a week for four consecutive weeks: *Provided,* That newspaper publication may be dispensed with entirely if waived by all the shareholders and in the case of a merger or consolidation one publication at least ten days before the meeting shall be sufficient if publication for four weeks is waived by holders of at least two-thirds of each class of capital stock and prior written consent of the Comptroller of the Currency is obtained. The national banking association shall send such notice to each shareholder of record by registered mail or by certified mail at least ten days prior to the meeting, which notice may be waived specifically by any shareholder.

(b) Rights of dissenting stockholders

A shareholder of a national banking association who votes against the conversion, merger, or consolidation, or who has given notice in writing to the bank at or prior to such meeting that he dissents from the plan, shall be entitled to receive in cash the value of the shares held by him, if and when the conversion, merger, or consolidation is consummated, upon written request made to the resulting State bank at any time before thirty days after the date of consummation of such conversation, merger, or consolidation, accompanied by the surrender of his stock certificates. The value of such shares shall be determined as of the date on which the shareholders' meeting was held authorizing the conversion, merger, or consolidation, by a committee of three persons, one to be selected by unanimous vote of the dissenting shareholders entitled to receive the value of their shares, one by the directors of the resulting State bank, and the third by the two so chosen. The valuation agreed upon by any two of three appraisers thus chosen shall govern; but, if the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment as provided herein, such shareholder may within five days after being notified of the appraised value of his shares appeal to the Comptroller of the Currency, who shall cause a reappraisal to be made, which shall be final and binding as to the value of the shares of the appellant. If, within ninety days from the date of consummation of the conversion, merger, or consolidation, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party, cause an appraisal to be made, which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal, or the appraisal as the case may be, shall be paid by the resulting State bank. The plan of conversion, merger, or consolidation shall provide the manner of disposing of the shares of the resulting State bank not taken by the dissenting shareholders of the national banking association.

(Aug. 17, 1950, ch. 729, § 2, 64 Stat. 455; June 11, 1960, Pub. L. 86-507, § 1(10), 74 Stat. 200.)

AMENDMENTS

1960—Subsec. (a). Pub. L. 86-507 inserted "or by certified mail" following "registered mail".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 214c of this title.

§ 214b. Continuation of business and corporate entity

The franchise of a national banking association as a national banking association shall automatically terminate when its conversion into or its merger or consolidation with a State bank under a State charter is consummated and the resulting State bank shall be considered the same business and corporate entity as the national banking association, although as to rights, powers, and duties the resulting bank is a State bank. Any references to such national banking association in any contract, will, or document shall be considered a reference to the State bank if not inconsistent with the provisions of the contract, will, or document or applicable law.

(Aug. 17, 1950, ch. 729, § 3, 64 Stat. 456.)

§ 214c. Conversions in contravention of State law

No conversion of a national banking association into a State bank or its merger or consolidation with a State bank shall take place under this subchapter and section 321 of this title in contravention of the law of the State in which the national banking association is located; and no such conversion, merger, or consolidation shall take place under said sections unless under the law of the State in which such national banking association is located State banks may without approval by any State authority convert into and merge or consolidate with national banking associations under limitations or conditions no more restrictive than those contained in section 214a of this title with respect to the conversion of a national bank into, or merger or consolidation of a national bank with, a State bank under State charter.

(Aug. 17, 1950, ch. 729, § 4, 64 Stat. 456; July 12, 1952, ch. 696, 66 Stat. 590; Sept. 3, 1954, ch. 1263, § 25, 68 Stat. 1235.)

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "this subchapter and section 321 of this title" for "sections 214 to 214c, 264(e)(2), (i)(2), (v)(4), and 321 of this title".

1952—Act July 12, 1952, amended section so that the limitation of this section beyond which State law cannot go will be measured by the standard set out in section 214a of this title for National-to-State conversions.

SUBCHAPTER XVI—CONSOLIDATION AND MERGER

§ 215. Consolidation of national banks or State banks with national banks

(a) Approval of Comptroller, board and shareholders; terms and conditions; notice

Any national banking association or any bank incorporated under the laws of any State may, with the approval of the Comptroller, be consolidated with one or more national banking associations located in the same State under the charter of a national banking association on such terms and conditions as may be lawfully agreed upon by a majority of the board of directors of each association or bank proposing to consolidate, and be ratified and confirmed by the affirmative vote of the shareholders of each such association or bank owning at least two-thirds of its capital stock outstanding, or by a greater proportion of such capital stock in the case of such State bank if the laws of the State where it is organized so require, at a meeting to be held on the call of the directors after publishing notice of the time, place, and object of the meeting for four consecutive weeks in a newspaper of general circulation published in the place where the association or bank is located, or, if there is no such newspaper, then in the paper of general circulation published nearest thereto, and after sending such notice to each shareholder of record by certified or registered mail at least ten days prior to the meeting, except to those shareholders who specifically waive notice, but any additional notice shall be given to the shareholders of such State bank which may be required by the laws of the State where it is organized. Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State bank.

(b) Liability of consolidated association; capital stock; dissenting shareholders

The consolidated association shall be liable for all liabilities of the respective consolidating banks or associations. The capital stock of such consolidated association shall not be less than that required under existing law for the organization of a national bank in the place in which it is located: *Provided,* That if such consolidation shall be voted for at such meetings by the necessary majorities of the shareholders of each association and State bank proposing to consolidate, and thereafter the consolidation shall be approved by the Comptroller, any shareholder of any of the associations or State banks so consolidated who has voted against such consolidation at the meeting of the association or bank of which he is a stockholder, or who has given notice in writing at or prior to such meeting to the presiding officer that he dissents from the plan of consolidation, shall be entitled to receive the value of the shares so held by him when such consolidation is approved by the Comptroller upon written request made to the consolidated association at any time before thirty days after the date of consummation of the consolidation, accompanied by the surrender of his stock certificates.

(c) Valuation of shares

The value of the shares of any dissenting shareholder shall be ascertained, as of the effective date of the consolidation, by an appraisal made by a committee of three persons, composed of (1) one selected by the vote of the holders of the majority of the stock, the owners of which are entitled to payment in cash; (2) one selected by the directors of the consolidated banking association; and (3) one selected by the two so selected. The valuation agreed upon by any two of the three appraisers shall govern. If the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment, that shareholder may, within five days after being notified of the appraised value of his shares, appeal to the Comptroller, who shall cause a reappraisal to be made which shall be final and binding as to the value of the shares of the appellant.

(d) Appraisal by Comptroller; expenses of consolidated association; sale and resale of shares; State appraisal and consolidation law

If, within ninety days from the date of consummation of the consolidation, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party cause an appraisal to be made which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal or the appraisal, as the case may be, shall be paid by the consolidated banking association. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by the consolidated banking association. Within thirty days after payment has been made to all dissenting shareholders as provided for in this section the shares of stock of the consolidated banking association which would have been delivered to such dissenting shareholders had they not requested payment shall be sold by the consolidated banking association at an advertised public auction, unless some other method of sale is approved by the Comptroller, and the consolidated banking association shall have the right to purchase any of such shares at such public auction, if it is the highest bidder therefor, for the purpose of reselling such shares within thirty days thereafter to such person or persons and at such price not less than par as its board of directors by resolution may determine. If the shares are sold at public auction at a price greater than the amount paid to the dissenting shareholders the excess in such sale price shall be paid to such shareholders. The appraisal of such shares of stock in any State bank shall be determined in the manner prescribed by the law of the State in such cases, rather than as provided in this section, if such provision is made in the State law; and no such consolidation shall be in contravention of the law of the State under which such bank is incorporated.

(e) Status of consolidated association; property rights and interests vested and held as fiduciary

The corporate existence of each of the consolidating banks or banking associations participating in such consolidation shall be merged into and continued in the consolidated national

banking association and such consolidated national banking association shall be deemed to be the same corporation as each bank or banking association participating in the consolidation. All rights, franchises, and interests of the individual consolidating banks or banking associations in and to every type of property (real, personal, and mixed) and choses in action shall be transferred to and vested in the consolidated national banking association by virtue of such consolidation without any deed or other transfer. The consolidated national banking association, upon the consolidation and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises, and interests, including appointments, designations, and nominations, and all other rights and interests as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, and committee of estates of lunatics, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any one of the consolidating banks or banking associations at the time of consolidation, subject to the conditions hereinafter provided.

(f) Removal as fiduciary; discrimination

Where any consolidating bank or banking association, at the time of the consolidation, was acting under appointment of any court as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, or committee of estates of lunatics, or in any other fiduciary capacity, the consolidated national banking association shall be subject to removal by a court of competent jurisdiction in the same manner and to the same extent as was such consolidating bank or banking association prior to the consolidation. Nothing contained in this section shall be considered to impair in any manner the right of any court to remove the consolidated national banking association and to appoint in lieu thereof a substitute trustee, executor, or other fiduciary, except that such right shall not be exercised in such a manner as to discriminate against national banking associations, nor shall any consolidated national banking association be removed solely because of the fact that it is a national banking association.

(g) Issuance of stock by consolidated association; preemptive rights

Stock of the consolidated national banking association may be issued as provided by the terms of the consolidation agreement, free from any preemptive rights of the shareholders of the respective consolidating banks.

(Nov. 7, 1918, ch. 209, § 1, as added Sept. 8, 1959, Pub. L. 86-230, § 20, 73 Stat. 460.)

CODIFICATION

Provisions similar to those comprising this section were contained in sections 1 and 2 of act Nov. 7, 1918, ch. 209, 40 Stat. 1043, and section 3 of act Nov. 7, 1918, ch. 209, added Feb. 25, 1927, ch. 191, § 1, 44 Stat. 1225 (formerly classified to sections 33 to 34a of this title) prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

§ 215a. Merger of national banks or State banks into national banks

(a) Approval of Comptroller, board and shareholders; merger agreement; notice; capital stock; liability of receiving association

One or more national banking associations or one or more State banks, with the approval of the Comptroller, under an agreement not inconsistent with this subchapter, may merge into a national banking association located within the same State, under the charter of the receiving association. The merger agreement shall—

(1) be agreed upon in writing by a majority of the board of directors of each association or State bank participating in the plan of merger;

(2) be ratified and confirmed by the affirmative vote of the shareholders of each such association or State bank owning at least two-thirds of its capital stock outstanding, or by a greater proportion of such capital stock in the case of a State bank if the laws of the State where it is organized so require, at a meeting to be held on the call of the directors, after publishing notice of the time, place, and object of the meeting for four consecutive weeks in a newspaper of general circulation published in the place where the association or State bank is located, or, if there is no such newspaper, then in the newspaper of general circulation published nearest thereto, and after sending such notice to each shareholder of record by certified or registered mail at least ten days prior to the meeting, except to those shareholders who specifically waive notice, but any additional notice shall be given to the shareholders of such State bank which may be required by the laws of the State where it is organized. Publication of notice may be waived, in cases where the Comptroller determines that an emergency exists justifying such waiver, by unanimous action of the shareholders of the association or State banks;

(3) specify the amount of the capital stock of the receiving association, which shall not be less than that required under existing law for the organization of a national bank in the place in which it is located and which will be outstanding upon completion of the merger, the amount of stock (if any) to be allocated, and cash (if any) to be paid, to the shareholders of the association or State bank being merged into the receiving association; and

(4) provide that the receiving association shall be liable for all liabilities of the association or State bank being merged into the receiving association.

(b) Dissenting shareholders

If a merger shall be voted for at the called meetings by the necessary majorities of the shareholders of each association or State bank participating in the plan of merger, and thereafter the merger shall be approved by the Comptroller, any shareholder of any association or State bank to be merged into the receiving association who has voted against such merger at the meeting of the association or bank of which he is a stockholder, or has given notice in writing at or prior to such meeting to

the presiding officer that he dissents from the plan of merger, shall be entitled to receive the value of the share so held by him when such merger shall be approved by the Comptroller upon written request made to the receiving association at any time before thirty days after the date of consummation of the merger, accompanied by the surrender of his stock certificates.

(c) Valuation of shares

The value of the shares of any dissenting shareholder shall be ascertained, as of the effective date of the merger, by an appraisal made by a committee of three persons, composed of (1) one selected by the vote of the holders of the majority of the stock, the owners of which are entitled to payment in cash; (2) one selected by the directors of the receiving association; and (3) one selected by the two so selected. The valuation agreed upon by any two of the three appraisers shall govern. If the value so fixed shall not be satisfactory to any dissenting shareholder who has requested payment, that shareholder may, within five days after being notified of the appraised value of his shares, appeal to the Comptroller, who shall cause a reappraisal to be made which shall be final and binding as to the value of the shares of the appellant.

(d) Application to shareholders of merging associations: appraisal by Comptroller; expenses of receiving association; sale and resale of shares; State appraisal and merger law

If, within ninety days from the date of consummation of the merger, for any reason one or more of the appraisers is not selected as herein provided, or the appraisers fail to determine the value of such shares, the Comptroller shall upon written request of any interested party cause an appraisal to be made which shall be final and binding on all parties. The expenses of the Comptroller in making the reappraisal or the appraisal, as the case may be, shall be paid by the receiving association. The value of the shares ascertained shall be promptly paid to the dissenting shareholders by the receiving association. The shares of stock of the receiving association which would have been delivered to such dissenting shareholders had they not requested payment shall be sold by the receiving association at an advertised public auction, and the receiving association shall have the right to purchase any of such shares at such public auction, if it is the highest bidder therefor, for the purpose of reselling such shares within thirty days thereafter to such person or persons and at such price not less than par as its board of directors by resolution may determine. If the shares are sold at public auction at a price greater than the amount paid to the dissenting shareholders, the excess in such sale price shall be paid to such dissenting shareholders. The appraisal of such shares of stock in any State bank shall be determined in the manner prescribed by the law of the State in such cases, rather than as provided in this section, if such provision is made in the State law; and no such merger shall be in contravention of the law of the State under which such bank is incorporated. The provisions of this subsection shall apply only to shareholders of (and stock owned by them in) a bank or association being merged into the receiving association.

(e) Status of receiving association; property rights and interests vested and held as fiduciary

The corporate existence of each of the merging banks or banking associations participating in such merger shall be merged into and continued in the receiving association and such receiving association shall be deemed to be the same corporation as each bank or banking association participating in the merger. All rights, franchises, and interests of the individual merging banks or banking associations in and to every type of property (real, personal, and mixed) and choses in action shall be transferred to and vested in the receiving association by virtue of such merger without any deed or other transfer. The receiving association, upon the merger and without any order or other action on the part of any court or otherwise, shall hold and enjoy all rights of property, franchises, and interests, including appointments, designations, and nominations, and all other rights and interests as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver and committee of estates of lunatics, and in every other fiduciary capacity, in the same manner and to the same extent as such rights, franchises, and interests were held or enjoyed by any one of the merging banks or banking associations at the time of the merger, subject to the conditions hereinafter provided.

(f) Removal as fiduciary; discrimination

Where any merging bank or banking association, at the time of the merger, was acting under appointment of any court as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, or committee of estates of lunatics, or in any other fiduciary capacity, the receiving association shall be subject to removal by a court of competent jurisdiction in the same manner and to the same extent as was such merging bank or banking association prior to the merger. Nothing contained in this section shall be considered to impair in any manner the right of any court to remove the receiving association and to appoint in lieu thereof a substitute trustee, executor, or other fiduciary, except that such right shall not be exercised in such a manner as to discriminate against national banking associations, nor shall any receiving association be removed solely because of the fact that it is a national banking association.

(g) Issuance of stock by receiving association; preemptive rights

Stock of the receiving association may be issued as provided by the terms of the merger agreement, free from any preemptive rights of the shareholders of the respective merging banks.

(Nov. 7, 1918, ch. 209, § 2, as added Sept. 8, 1959, Pub. L. 86-230, § 20, 73 Stat. 463.)

CODIFICATION

Provisions similar to those comprising this section were contained in section 4 of act Nov. 7, 1918, ch. 209, as added July 14, 1952, ch. 722, § 1, 66 Stat. 599 (formerly classified to section 34b of this title), prior to

the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

§ 215b. Definitions

As used in this subchapter, the term—

(1) "State bank" means any bank, banking association, trust company, savings bank (other than a mutual savings bank), or other banking institution which is engaged in the business of receiving deposits and which is incorporated under the laws of any State, or which is operating under the Code of Law for the District of Columbia (except a national banking association located in the District of Columbia);

(2) "State" means the several States and Territories, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

(3) "Comptroller" means the Comptroller of the Currency; and

(4) "Receiving association" means the national banking association into which one or more national banking associations or one or more State banks, located within the same State, merge.

(Nov. 7, 1918, ch. 209, § 3, as added Sept. 8, 1959, Pub. L. 86-230, § 20, 73 Stat. 465.)

CODIFICATION

Provisions similar to those comprising this section were contained in section 5 of act Nov. 7, 1918, ch. 209, as added July 14, 1952, ch. 722, § 1, 66 Stat. 601 (formerly classified to section 34c of this title), prior to the complete amendment and renumbering of act Nov. 7, 1918, by Pub. L. 86-230.

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522. Federal reserve branch bank buildings.

CHAPTER REFERRED TO IN OTHER SECTIONS

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SUBCHAPTER I—DEFINITIONS, ORGANIZATION, AND GENERAL PROVISIONS AFFECTING SYSTEM

CROSS REFERENCES

Emergency limitations and restrictions of business of member banks, see section 95 of this title.

§ 221. Definitions

Wherever the word "bank" is used in this chapter, the word shall be held to include State bank, banking association, and trust company, except where national banks or Federal reserve banks are specifically referred to.

The terms "national bank" and "national banking association" used in this chapter shall be held to be synonymous and interchangeable. The term "member bank" shall be held to mean any national bank, State bank, or bank or trust company which has become a member of one of the Federal reserve banks. The term "board" shall be held to mean Board of Governors of the Federal Reserve System; the term "district" shall be held to mean Federal reserve district; the term "reserve bank" shall be held to mean Federal reserve bank; the term "the continental United States" means the States of the United States and the District of Columbia.

(Dec. 23, 1913, ch. 6, § 1, 38 Stat. 251; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; June 25, 1959, Pub. L. 86-70, § 8(a), 73 Stat. 142.)

REFERENCES IN TEXT

In the original, "this chapter" reads "this Act", meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in the Code, see Distribution note under section 226 of this title.

AMENDMENTS

1959—Pub. L. 86-70 inserted the definition of the term "the continental United States."

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 221a of this title.

§ 221a. Additional definitions

As used in this chapter—

(a) The terms "banks", "national bank", "national banking association", "member bank", "board", "district", and "reserve bank" shall have the meanings assigned to them in section 221 of this title.

(b) Except where otherwise specifically provided, the term "affiliate" shall include any corporation, business turst, association, or other similar organization—

(1) Of which a member bank, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 per centum of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(2) Of which control is held, directly or indirectly, through stock ownership or in any other manner, by the shareholders of a member bank who own or control either a majority of the shares of such bank or more than 50 per centum of the number of shares voted for the election of directors of such bank at the preceding election, or by trustees for the benefit of the shareholders of any such bank; or

(3) Of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one member bank; or

(4) Which owns or controls, directly or indirectly, either a majority of the shares of capital stock of a member bank or more than 50 per centum of the number of shares voted for the election of directors of a member bank at the preceding election, or controls in any manner the election of a majority of the directors of a member bank, or for the benefit of whose shareholders or members all or substantially all the capital stock of a member bank is held by trustees.

(June 16, 1933, ch. 89, § 2, 48 Stat. 162; Aug. 23, 1935, ch. 614, § 301, 49 Stat. 707; July 1, 1966, Pub. L. 89-485, § 13(a), (b), 80 Stat. 242.)

REFERENCES IN TEXT

In the original, "as used in this chapter" reads, "as used in this Act and in any provision of law amended by this Act—". The act thus referred to is the Banking Act of 1933, act June 16, 1933. For distribution of the Banking Act of 1933 in the Code, see Distribution note under section 227 of this title.

AMENDMENTS

1966—Subsec. (b)(4). Pub. L. 89-485, § 13(a), added par. (4), which incorporates definitions of "holding company affiliate" contained in clauses (1) and (2) of former subsec. (c) of this section, substituting "a member bank" for "any one bank" in the first two instances.

Subsec. (c). Pub. L. 89-485, § 13(b), repealed definition of "holding company affiliate", clauses (1) and (2) thereof now being incorporated in the subsec. (b)(4) definition of "affiliate", substituting "a member bank" for "any one bank" in the first two instances and the par. excluding therefrom any corporations stock of which is fully owned by the United States and any organization determined by the Board of Governors of the Federal Reserve System not to be engaged, directly or indirectly, as a business in holding the stock of, or managing or controlling, banks, banking associations, savings banks, or trust companies.

1935—Subsec. (c). Act Aug. 23, 1935, added last par.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371d, 377, 1730, 1820, 1828 of this title; title 26 section 601.

§ 222. Federal reserve districts; membership of national banks

The continental United States, excluding Alaska, shall be divided into not less than eight nor more than twelve districts. Such districts may be readjusted and new districts may from time to time be created by the Board of Governors of the Federal Reserve System, not to exceed twelve in all: *Provided*, That the districts shall be apportioned with due regard to the convenience and customary course of business and shall not necessarily be coterminous with any State or States. Such districts shall be known as Federal Reserve districts and may be designated by number. When the State of Alaska or Hawaii is hereafter admitted to the Union the Federal Reserve districts shall be readjusted by the Board of Governors of the Federal Reserve System in such manner as to include such State. Every national bank in any State shall, upon commencing business or within ninety days after admission into the Union of the State in which it is located, become a member bank of the Federal Reserve System by subscribing and paying for stock in the Federal Reserve bank of its district in accordance with the provisions of this chapter

and shall thereupon be an insured bank under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and failure to do so shall subject such bank to the penalty provided by section 501a of this title.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; July 7, 1958, Pub. L. 85-508, § 19, 72 Stat. 350; Mar. 18, 1959, Pub. L. 86-3, § 17, 73 Stat. 12.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in the text, is classified to chapter 16 (§ 1811 et seq.) of this title.

AMENDMENTS

1959—Pub. L. 86-3 required readjustment of districts when the State of Hawaii is admitted to the Union.

1958—Pub. L. 85-508 required readjustment of districts when the State of Alaska is admitted to the Union, and inserted provisions requiring national banks to become members of the Federal Reserve System upon commencing business or within 90 Days after admission into the Union of the State in which they are located.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

RULES OF ORGANIZATION OF FEDERAL RESERVE SYSTEM; LIST OF FEDERAL RESERVE BANKS AND BRANCHES

26 F.R. 12638, as revised effective November 2, 1976

RULES OF ORGANIZATION

SECTION 1—BASIS AND SCOPE

These Rules are issued by the Board of Governors of the Federal Reserve System (the "Board") pursuant to the requirement of section 552 of Title 5 of the United States Code that each agency shall publish in the Federal register a description of its central and field organization.

SECTION 2—COMPOSITION AND LOCATION

(a) *Governors, Chairman, Vice Chairman.* The Board consists of seven members appointed by the President, by and with the advice and consent of the Senate, for fourteen-year terms. The members of the Board are required by law to devote their entire time to the business of the Board. One of them is designated by the President as Chairman and one as Vice Chairman, to serve as such for terms of four years. At meetings, the Chairman presides or, in his absence, the Vice Chairman presides. In the absence of the Chairman and Vice Chairman, the member of the Board present with the longest service acts as Chairman. The Chairman of the Board, subject to its supervision, is its active executive officer. The Board meets regularly and frequently to consider matters relating to monetary and credit policies, regulatory and supervisory duties with which it has been charged by the Congress, and administrative and other questions arising in the conduct of the work of the Board.

(b) *Location and business hours.* The principal offices of the Board are in the Federal Reserve Building, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. The Board's regular business hours are from 8:45 a.m. to 5:15 p.m. each weekday except Saturday; but such business hours may be changed from time to time.

SECTION 3—CENTRAL ORGANIZATION

The Board's central organization consists of the following Offices, Divisions, and officials:

(a) Office of Board Members consists of the members of the Board, Counsel to the Chairman, Assistants, and Special Assistants to the Board assigned to public affairs and Congressional liaison.

(b) Office of Staff Director for Monetary Policy is responsible for FOMC staff activities, preparation of proposals on monetary policy instruments including discount rates and reserve requirements, coordination of staff work on regulatory issues closely related to monetary policy and the functioning of money and capital markets, liaison with the Trading Desk at the Federal Reserve Bank of New York, liaison with Government agencies and private groups in connection with debt and cash management policies, interdepartmental coordination of monetary policy planning with foreign exchange operations, and coordination of System statistical programs related to monetary policy operations.

(c) Office of Staff Director for Management is responsible for the planning and coordination of staff operations and organization and for resource management, and supervision of the following functions: Board building administration and operations, Board budget and accounting activities, data processing, personnel-related activities, Equal Employment Opportunity, contingency planning operations, and coordination of the banking structure program activities.

(d) Office of the Secretary, headed by the Board's Secretary, coordinates and handles items requiring Board action, including actions under delegated authority; prepares agenda for Board meetings; implements actions taken at Board meetings; prepares, circulates and indexes minutes of the Board; performs special functions in connection with meetings of the Conference of Chairmen of Federal Reserve Banks, Conference of Presidents of Federal Reserve Banks, Federal Advisory Council, Consumer Advisory Council, and other System groups; provides assistance to the Board-in connection with appointment of directors of Federal Reserve Banks; makes arrangements for individuals and groups visiting the Board, both foreign and domestic; maintains custody of and provides reference service to official records of the Board; handles correspondence and public information requests; secures passports and visas for official foreign travel of System personnel; develops management systems for the Office; and provides relief secretarial and stenographic services.

(e) Legal Division, headed by the Board's General Counsel, advises and assists the Board with respect to legal aspects of its daily operations, including applicable statutes, regulations, applications, interpretations, opinions, orders, hearings, litigation, and legislation.

(f) Division of Research and Statistics, headed by a Director, provides the Board and the Federal Open Market Committee with the economic analysis and information needed for current operations, for the formulation of monetary and credit policies, and for the exercise of responsibilities with regard to bank regulation; prepares, publishes, and interprets a variety of statistical series in the financial and non-financial fields; conducts basic research relating to the effects of monetary policy on economic activity and prices, and to the effects of financial regulation on the structure and functioning of financial markets.

(g) Division of International Finance, headed by a Director, provides the Board and the Federal Open Market Committee with information and economic analysis on international questions affecting U.S. monetary policy and the exercise of regulatory responsibilities; conducts research in these areas; provides staff

work in connection with the supervision of foreign operations of the Federal Reserve System, the membership of the Chairman of the Board on the National Advisory Council on International Monetary and Financial Policies, and the role of the Chairman of the Board as U.S. Alternate Governor to the International Monetary Fund.

(h) Division of Federal Reserve Bank Operations, headed by a Director, advises and assists the Board with respect to matters concerning the planning and programs for operation of the Federal Reserve Banks. The Division monitors the implementation and achievement of such programs and informs the Board of the status of each program. It provides an appraisal of Reserve Bank building programs, and recommendations on building program matters; provides analysis and recommendations for Board policy in the payments mechanism area; provides an appraisal of Reserve Bank communication and automation plans and proposals and recommendations to the Board in such areas; reviews the lending and credit activities of the Reserve Banks; and maintains liaison with various interested parties on payments mechanism matters. The Division also coordinates the printing and distribution of Federal Reserve notes and is jointly responsible with the Bureau of the Mint for the production and distribution of coin.

(i) Division of Federal Reserve Bank Examinations and Budgets, headed by a Director, assists the Board in its management-control responsibilities with respect to the Federal Reserve Banks and advises the Board on matters concerning operations, planning and programs of the Reserve Banks within its area of responsibility. The Division is responsible for financial examinations of the Federal Reserve Banks and for operational reviews of Reserve Bank functions including: Protection, Fiscal Agency, Open Market, Check Processing, Data Processing, Communications, Coin and Currency, Audit and various staff functions. The Division administers an expense control and budgeting system for collection and analysis of budget and expense data; prescribes accounting principles, standards and related requirements to be followed by the Reserve Banks; and provides certain centralized financial accounting services. The Division also maintains liaison with the Treasury and other Government agencies and with various interested parties on matters related to Reserve Bank operations within its area of responsibility.

(j) Division of Banking Supervision and Regulation, headed by a Director, coordinates the bank supervisory functions of the System and evaluates the examination procedures of the Reserve Banks; exercises general supervision of the commercial and fiduciary activities of State member banks; administers the supervisory features of laws and regulations relating to affiliates and bank holding companies, supervises various foreign banking activities of member banks and foreign banking and financing corporations; administers the public disclosure provisions of the Securities Exchange Act of 1934, as amended, in their application to State member banks, and the provisions of the Act giving responsibility to the Board for regulating security credit transactions; monitors the provisions of various consumer protection statutes, the Currency and Foreign Transactions Reporting Act, and the Civil Rights Act of 1968 in their application to State member banks; processes and presents to the Board applications filed pursuant to the Bank Holding Company Act of 1956, as amended, and the Bank Merger Act and various other applications submitted under the provisions of the Federal Reserve Act or related statutes; and advises the Board regarding developments in banking and bank supervisory policies and procedures.

(k) Division of Consumer Affairs, headed by a Director, implements consumer affairs legislation for which the Board has responsibility. Its functions include drafting regulations and interpretations pursuant to the Truth in Lending Act (as amended), the Federal Trade Commission Improvements Act, the Equal Credit Opportunity Act (as amended), and the Home Mortgage Disclosure Act, for financial institutions and other firms engaged in consumer credit and leasing activities. The division also administers these regulations as well as the Fair Credit Reporting Act in their application to State member banks.

(l) Division of Personnel, headed by a Director, is responsible for the development and implementation of Board personnel policies and programs, and advises and assists the Board on personnel matters pertaining to the Federal Reserve Banks.

(m) Division of Administrative Services, headed by a Director, serves as the central procurement, duplicating, communications, and service unit of the Board and advises and assists the Board with respect to such matters. It also performs various administrative functions, including the distribution of Board publications and the operation of the Board's building and other facilities.

(n) Office of the Controller, headed by the Board's Controller, is responsible for maintaining an effective internal financial management system, including budgeting, accounting, reporting, internal and contract auditing, and operational analyses; determining assessments on the Federal Reserve Banks for funds to cover expenses of the Board; receiving and disbursing the Board's funds; and handling reimbursement to the Treasury Department for the printing, issuance, and redemption of Federal Reserve notes.

(o) Division of Data Processing, headed by a Director, supports the Board's organization through the development, operation, and maintenance of information processing systems. Activities include systems and mathematical statistical analysis, computer programming, equipment operation, data and production control, advanced planning and implementation of computer systems and communication networks. The Division develops, collects, and processes statistical information on banking developments and on the condition of Federal Reserve Banks and member banks; and designs and produces graphics used in economic analysis and information presentation.

(p) Other personnel. The Board does not employ administrative law judges or hearing officers as regular members of its staff; but, in accordance with applicable provisions of law and in individual cases as the need may arise, the Board obtains and utilizes administrative law judges and hearing officers, whose functions in such capacity are appropriately separated, as required by law, from investigative and prosecuting functions of the staff.

SECTION 4—FIELD ORGANIZATION

(a) *Federal Reserve Banks.* The United States is divided into twelve Federal Reserve districts. In one city in each Federal Reserve district there is located a Federal Reserve Bank; in ten of the districts there are one or more branches of the Federal Reserve Bank in other cities; and in some districts there are offices or facilities with specialized functions. Each Federal Reserve Bank is a separate legal entity, created pursuant to the Federal Reserve Act and operating under the general supervision of the Board. The locations of the twenty-five branches and the boundaries of the Federal Reserve district and branch territories are shown in the Appendix. Each Federal Reserve Bank, in addition to its other duties, carries out local functions for the Board pursuant to instructions of the Board, and in many matters acts as the Board's field representative in the Bank's district. Each Reserve Bank assists in the regional administration of the Board's regulations and policies, keeps the Board informed of local conditions, and recommends such actions as it thinks appropriate in particular cases. In general, persons concerned with Federal Reserve matters should deal in the first instance with the Federal Reserve Bank of the appropriate district or a branch thereof, and the Board requests all persons to follow this procedure.

(b) *Federal Reserve Agents.* Each Federal Reserve Bank has nine directors, three of whom are appointed by the Board. One of the directors appointed by the Board is designated by the Board as Chairman of the

Board of Directors of the Bank and as Federal Reserve Agent. He acts as the Board's official representative and maintains a local office of the Board on the premises of the Federal Reserve Bank.

SECTION 5—DELEGATIONS OF AUTHORITY

The Board does not delegate any of its functions relating to rule-making or pertaining principally to monetary or credit policies or involving any questions of general policy. However, the Board delegates certain of its supervisory and other functions prescribed by statute or regulations of the Board to its members or employees or to the Federal Reserve Banks as provided in its Rules Regarding Delegation of Authority (12 CFR 265). In addition, the Board delegates to the Federal Reserve Banks certain functions not provided for by statute or regulations of the Board, including authority to extend the time within which certain transactions may be consummated.

APPENDIX A

LIST OF FEDERAL RESERVE BANKS AND BRANCHES

Federal Reserve Bank and Address

Boston: 30 Pearl Street, Boston, Massachusetts 02106
New York: 33 Liberty Street (Federal Reserve P.O. Station), New York, New York 10045
Buffalo Branch: 160 Delaware Avenue (P.O. Box 961), Buffalo, New York 14240
Philadelphia: 100 North 6th Street (P.O. Box 66), Philadelphia, Pennsylvania 19105
Cleveland: 1455 East Sixth Street (P.O. Box 6387), Cleveland, Ohio 44101
Cincinnati Branch: 150 East Fourth Street (P.O. Box 999), Cincinnati, Ohio 45201
Pittsburgh Branch: 717 Grant Street (P.O. Box 867), Pittsburgh, Pennsylvania 15230
Richmond: 100 North Ninth Street (P.O. Box 27622), Richmond, Virginia 23261
Baltimore Branch: 114–120 East Lexington Street (P.O. Box 1378), Baltimore, Maryland 21203
Charlotte Branch: 401 South Tryon Street (P.O. Box 300), Charlotte, North Carolina 28230
Culpeper Communications and Records Center: P.O. Drawer 20, Culpeper, Virginia 22701
Atlanta: 104 Marietta Street, N.W., Atlanta, Georgia 30303
Birmingham Branch: 1801 Fifth Avenue, North (P.O. Box 10447), Birmingham, Alabama 35202
Jacksonville Branch: 515 Julia Street, Jacksonville, Florida 32203
Miami Branch: 3770 S.W. 8th Street, Coral Gables, Florida 33134 (P.O. Box 520847, Miami, Florida 33152)
Nashville Branch: 301 Eighth Avenue, North, Nashville, Tennessee 37203
New Orleans Branch: 525 St. Charles Avenue (P.O. Box 61630), New Orleans, Louisiana 70161
Chicago: 230 South LaSalle Street (P.O. Box 834), Chicago, Illinois 60690
Detroit Branch: 160 Fort Street, West (P.O. Box 1059), Detroit, Michigan 48231
St. Louis: 411 Locust Street (P.O. Box 442), St. Louis, Missouri 63166
Little Rock Branch: 325 West Capitol Avenue (P.O. Box 1261), Little Rock, Arkansas 72203
Louisville Branch: 410 South Fifth Street (P.O. Box 899), Louisville, Kentucky 40201
Memphis Branch: 200 North Main Street (P.O. Box 407), Memphis, Tennessee 38101
Minneapolis: 250 Marquette Avenue, Minneapolis, Minnesota 55480
Helena Branch: 400 North Park Avenue, Helena, Montana 59601
Kansas City: 925 Grand Avenue (Federal Reserve Station), Kansas City, Missouri 64198
Denver Branch: 1020 16th Street (P.O. Box 5228, Terminal Annex), Denver, Colorado 80217
Oklahoma City Branch: 226 Northwest Third Street (P.O. Box 25129), Oklahoma City, Oklahoma 73125
Omaha Branch: 102 South Seventeenth Street, Omaha, Nebraska 68102
Dallas: 400 South Akard Street (Station K), Dallas, Texas 75222
El Paso Branch: 301 East Main Street (P.O. Box 100), El Paso, Texas 79999
Houston Branch: 1701 San Jacinto Street (P.O. Box 2578), Houston, Texas 77001
San Antonio Branch: 126 East Nueva Street (P.O. Box 1471), San Antonio, Texas 78295
San Francisco: 400 Sansome Street (P.O. Box 7702), San Francisco, California 94120
Los Angeles Branch: 409 West Olympic Boulevard (P.O. Box 2077, Terminal Annex), Los Angeles, California 90051
Portland Branch: 915 S.W. Stark Street (P.O. Box 3436), Portland, Oregon 97208
Salt Lake City Branch: 120 South State Street (P.O. Box 780), Salt Lake City, Utah 84110
Seattle Branch: 1015 Second Avenue (P.O. Box 3567), Seattle, Washington 98124

RULES OF PROCEDURE

SECTION 262.1—BASIS AND SCOPE

This Part is issued pursuant to section 552 of Title 5 of the United States Code, which requires that every agency shall publish in the Federal Register statements of the general course and method by which its functions are channeled and determined, rules of procedure, and descriptions of forms available or the places at which forms may be obtained.

SECTION 262.2—PROCEDURE FOR REGULATIONS

(a) *Notice.* Notices of proposed regulations of the Board of Governors of the Federal Reserve System (the "Board") or amendments thereto are published in the Federal Register, except as specified in paragraph (e) of this section or otherwise excepted by law. Such notices include a statement of the terms of the proposed regulations or amendments and a description of the subjects and issues involved; but the giving of such notices does not necessarily indicate the Board's final approval of any feature of any such proposal. The notices also include a reference to the authority for the proposed regulations or amendments and a statement of the time, place, and nature of public participation.

(b) *Public participation.* The usual method of public submission of data, views, or arguments is in writing. It is ordinarily preferable that they be sent to the Secretary of the Board, Washington, D. C. 20551, with copies to the appropriate Federal Reserve Bank. The locations of the twelve Federal Reserve Banks and the boundaries of the Federal Reserve districts are shown in the Appendix to the Board's Rules of Organization. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of this chapter regarding availability of information.

(c) *Preparation of draft and action by Board.* In the light of consideration of all relevant matter presented or ascertained, the appropriate division of the Board's staff, in collaboration with other divisions, prepares drafts of proposed regulations or amendments, and the staff submits them to the Board. The Board takes such action as its deems appropriate in the public interest. Any other documents that may be necessary to carry out any decision by the Board in the matter are usually prepared by the Legal Division, in collaboration with the other divisions of the staff.

(d) *Effective dates.* Any substantive regulation or amendment thereto issued by the Board is published not less than 30 days prior to the effective date thereof, except as specified in paragraph (e) of this section or as otherwise excepted by law.

(e) *Exceptions as to notice or effective date.* In certain situations, notice and public participation with respect to proposed regulations may be impracticable, unnecessary, contrary to the public interest, or otherwise not required in the public interest, or there may be reason and good cause in the public interest why the effective date should not be deferred for 30 days. The reason or reasons in such cases usually are that such notice, public participation, or deferment of ef-

fective date would prevent the action from becoming effective as promptly as necessary in the public interest, would permit speculators or others to reap unfair profits or to interfere with the Board's actions taken with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country, would provoke other consequences contrary to the public interest, would unreasonably interfere with the Board's necessary functions with respect to management or personnel, would not aid the persons affected, or would otherwise serve no useful purpose. The following may be mentioned as some examples of situations in which advance notice or deferred effective date, or both, will ordinarily be omitted in the public interest: The review and determination of discount rates established by Federal Reserve Banks, and changes in general requirements regarding reserves of member banks, maximum interest rates on time and savings deposits, or credit for purchasing or carrying securities.

SECTION 262.3—APPLICATIONS

(a) *Forms.* Any application, request, or petition (hereafter referred to as "application") for the approval, authority, determination, or permission of the Board with respect to any action for which such approval, authority, determination, or permission is required by law or regulation of the Board (including actions authorized to be taken by a Federal Reserve Bank or others on behalf of the Board pursuant to authority delegated under Part 265 of this chapter) shall be submitted in accordance with the pertinent form, if any, prescribed by the Board. Copies of any such form and details regarding information to be included therein may be obtained from any Federal Reserve Bank. Any application for which no form is prescribed should be signed by the person making the application or by his duly authorized agent, should state the facts involved, the action requested, and the applicant's interest in the matter, and should indicate the reasons why the application should be granted. Applications for access to, or copying of, records of the Board should be submitted as provided in § 261.4(d) of this chapter.

(b) *Filing of applications.* Any application should be sent to the Federal Reserve Bank of the district in which the applicant is located, except as otherwise specified on application forms, and that Bank will forward it to the Board when appropriate.

(c) *Analysis by staff.* In every case, the Reserve Bank makes such investigation as may be necessary, and, except when acting pursuant to delegated authority, reports the relevant facts, with its recommendation, to the Board. In the light of consideration of all relevant matter presented or ascertained, the Board's staff prepares and submits to the Board comments on the subject.

(d) *Action on applications.* The Board takes such action as it deems appropriate in the public interest. Such documents as may be necessary to carry out any decision by the Board are prepared by the Board's staff. With respect to actions taken by a Federal Reserve Bank on behalf of the Board under delegated authority, statements and necessary documents are prepared by the staff of such Federal Reserve Bank.

(e) *Notice of action.* Prompt notice is given to the applicant of the granting or denial in whole or in part of any application. In the case of a denial, except in affirming a prior denial or where the denial is self-explanatory, such notice is accompanied by a simple statement of the grounds for such action.

(f) *Action at Board's initiative.* When the Board, without receiving an application, takes action with respect to any matter as to which opportunity for hearing is not required by statute or Board regulation, similar procedure is followed, including investigations, reports, and recommendations by the Board's staff and by the Reserve Banks, where appropriate.

(g) *General procedures for bank holding company and merger applications.* In addition to procedures applicable under other provisions of this Part, the following procedures are applicable in connection with the Board's consideration of applications under sections 3 and 4 of the Bank Holding Company Act of 1956 (12 U.S.C. § 1842 and § 1843), hereafter referred to as "section 3 applications" or "section 4 applications", and of applications under section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. § 1823), hereafter called "merger applications." Except as otherwise indicated, the following procedures apply to all such applications.

(1) The Board issues each week a list that identifies section 3 and section 4 and merger applications received and acted upon during the preceding week by the Board or the Reserve Banks pursuant to delegated authority. Notice of receipt of all section 3 applications and of section 4(c)(8) applications acted on by the Board is published in the Federal Register.

(2) If a hearing is required by law or if the Board determines that a formal hearing for the purpose of taking evidence is desirable, the Board issues an order for such a hearing, and notice thereof is published in the Federal Register. Any such formal hearing is conducted by an administrative law judge in accordance with the Board's Rules of Practice for Formal Hearings (Part 263 of this chapter) except that, unless otherwise ordered by the Board, such a hearing is public.

(3) In any case in which a formal hearing is not ordered by the Board, the Board may afford the applicant and other properly interested persons (including Governmental agencies) an opportunity to present views orally before the Board or its designated representative. Unless otherwise ordered by the Board, any such oral presentation is public and notice of such public proceeding is published in the Federal Register.

(4) Each action taken by the Board on an application is embodied in an Order that indicates the votes of members of the Board. The Order either contains reasons for the Board's action (i.e., an Expanded Order) or is accompanied by a Statement of the reasons for the Board's action. Both the Order and any accompanying Statement are released to the press. Each such Order is published in the Federal Register. Each Order accompanied by a Statement and any Order of general interest, together with a list of other Orders, are published in the Federal Reserve Bulletin. Action by a Reserve Bank under delegated authority as provided for under Part 265 of this chapter is reflected in a letter of notification to the applicant.

(5) After action by the Board on an application, the Board will not grant any request for reconsideration of its action unless the request presents relevant facts that, for good cause shown, were not previously presented to the Board, or unless it otherwise appears to the Board that reconsideration would be appropriate.

(6) Unless the Board shall otherwise direct, each section 3 and section 4 and merger application is made available for inspection by the public except for portions thereof as to which the Board determines that nondisclosure is warranted under section 552(b) of Title 5 of the United States Code.

(h) *Special procedures for certain applications.* The following types of applications require procedures exclusive of, or in addition to, those described in (g)(1)-(6) above.

(1) Special rules pertaining to section 3 and merger applications follows: (i) Each Order of the Board and each letter of notification by a Reserve Bank acting pursuant to delegated authority approving a section 3 application includes, pursuant to the Act approved July 1, 1966 (12 U.S.C. § 1849(b)), a requirement that the transaction approved shall not be consummated before the thirtieth calendar day following the date of such Order. (ii) Each Order of the Board approving a merger application includes, pursuant to the Act approved February 21, 1966 (12 U.S.C. § 1828(c)(1)(6)), a requirement that the transaction approved shall not be consummated before the thirtieth calendar day following the date of such Order, except as the Board may otherwise determine pursuant to emergency situations as to which the Act permits consummation at earlier dates. (iii) Each Order or each letter of notification approving an application also includes, as a con-

dition of approval, a requirement that the transaction approved shall be consummated within three months and, in the case of acquisition by a holding company of stock of a newly organized bank, a requirement that such bank shall be opened for business within six months, but such periods may be extended for good cause by the Board (or by the appropriate Federal Reserve Bank where authority to grant such extensions is delegated to the Reserve Bank).

(2) For special rules governing procedures for section 4(c)(8) applications, refer to § 225.4(a)-(c) of this chapter.

(3) For special rules governing procedures for section 4(c)(9) applications, refer to § 225.4(g) of this chapter.

(4) For special rules governing procedures for section 4(c)(12) applications, refer to § 225.4(d) of this chapter.

(5) For special rules governing procedures for section 4(c)(13) applications, refer to § 225.4(f) of this chapter.

SECTION 262.4—ADJUDICATION WITH FORMAL HEARING

In connection with adjudication with respect to which a formal hearing is required by law or is ordered by the Board, the procedure is set forth in Part 263 of this chapter, entitled "Rules of Practice for Formal Hearings."

SECTION 262.5—APPEARANCE AND PRACTICE

Appearance and practice before the Board in all matters are governed by § 263.3 of this chapter.

SECTION 262.6—FORMS

Necessary forms to be used in connection with applications and other matters are available at the Federal Reserve Banks. A list of all such forms, which is reviewed and revised periodically, may be obtained from any Federal Reserve Bank.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 223. Number of Federal reserve cities in district

A Federal reserve district shall contain only one Federal reserve city.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 224. Status of reserve cities under former statutes

The organization of reserve districts and Federal reserve cities shall not be construed as changing the present status of reserve cities except insofar as this chapter changes the amount of reserves that may be carried with approved reserve agents located therein.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251; July 28, 1959, Pub. L. 86-114, § 3 (b) (5), 73 Stat. 264.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

AMENDMENTS

1959—Pub. L. 86-114 eliminated words "and central reserve cities" which followed "reserve cities".

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86-114, set out as a note under section 141 of this title.

SIMILAR PROVISIONS

Provisions relating to reserve cities and central reserve cities were contained in R.S. §§ 5191, 5192, and act Mar. 3, 1887, ch. 378, §§ 1, 2, 24 Stat. 559, 560.

CROSS REFERENCES

Reserve cities, see sections 141 and 142 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 225. Federal reserve banks; title

A Federal reserve bank shall include in its title the name of the city in which it is situated, as "Federal Reserve Bank of Chicago."

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251.)

CROSS REFERENCES

Designation of cities, see section 141 of this title.

Jurisdiction of actions by or against Federal reserve banks, see section 632 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 226. "Federal Reserve Act"

The short title of the Act of December 23, 1913, ch. 6, 38 Stat. 251, shall be the "Federal Reserve Act."

(Dec. 23, 1913, ch. 6, § 1, 38 Stat. 251.)

DISTRIBUTION

The Federal Reserve Act was incorporated into the Code as sections 1, 35, 59, former section 64, sections 82, 90, 101a, 104, 121, 141, 142, 221, 222 to 226, 241 to 247a, 248(a) to (m), (o), 261 to 263, 281 to 283, 285 to 290, 301 to 308, 321 to 329, 330 to 336, former section 337, sections 338, 341 to 347c, 348 to 352, former section 352a, sections 353 to 360, 371 to 372, 374 to 376, 391 to 393, 411 to 416, 418 to 421, 441 to 444, 446 to 448, 461, former sections 462, 462a-1, 462b, 462c, sections 463 to 467, 481 to 486, 501a to 503, 521, 522, 531, 601 to 604, 611 to 632 of this title, and section 409 of Title 31, Money and Finance. See, also, section 19 of Title 15, Commerce and Trade; sections 217 to 219, 655, 1005, 1014, 1906 and 1909 of Title 18, Crimes and Criminal Procedure, and section 725(b) of Title 31, Money and Finance. For distribution by sections, see Tables volume.

SEPARABILITY OF PROVISIONS; RIGHT TO AMEND, ALTER OR REPEAL

Sections 29 and 30 of the Federal Reserve Act provided as follows:

"Sec. 29. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

"Sec. 30. The right to amend, alter, or repeal this Act is hereby expressly reserved."

§ 227. "Banking Act of 1933"

The short title of the Act of June 16, 1933, ch. 89, 48 Stat. 162, shall be the "Banking Act of 1933."

(June 16, 1933, ch. 89, § 1, 48 Stat. 162.)

DISTRIBUTION

The Banking Act of 1933 was incorporated into the Code as sections 24, 33 [see note], 34a [see note], 36, 51, 52, 61, 64a, 71a, 77, 78, 84, 85, 161, 197a, 221a, 227, 242, 244, 248, 289, 301, 304, 321, 329, 333 to 336, former section 337, sections 338, 347, 348a, 371a, 371b, 371c, 371d, 374a, 375a, 377, 378, 481 and 632 of this title.

RIGHT TO AMEND, ALTER OR REPEAL; SEPARABILITY OF PROVISIONS

Section 34 of the Banking Act of 1933 provided: "The right to alter, amend, or repeal this Act is hereby expressly reserved. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby".

§ 228. "Banking Act of 1935"

The act of August 23, 1935, ch. 614, 49 Stat. 684, may be cited as the "Banking Act of 1935."

(Aug. 23, 1935, ch. 614, § 1, 49 Stat. 684.)

DISTRIBUTION

The Banking Act of 1935 was incorporated into the Code as sections 2, 24, 33 [see note], 34a to 34c [see note], 35, 36, 51, 51a, 51b–1, 52, 59 to 61, 64a, 71a, 78, 84, 85, 170, 181, 192, 221a, 228, 241, 242, 244, 247a, 248, 263, 287, 288, 321, 324, 336, 341, 343, 347b, former section 352a, sections 355, 357, 371, 371a, 371b, 371c, 375a, 377, 378, 461, former sections 462a–1 and 462b, sections 465, 481, 482, 486, 619, 1702, 1703, 1709, 1713 of this title; section 101 of Title 11, Bankruptcy; section 19 of Title 15, Commerce and Trade. See, also, sections 217, 218, 334, 655, 656, 709, 1005, 1906, 1909, and 2113 of Title 18, Crimes and Criminal Procedure.

SEPARABILITY OF PROVISIONS

Section 346 of the Banking Act of 1935, provided: "If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons and circumstances, shall not be affected thereby."

SUBCHAPTER II—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

§ 241. Creation; membership; compensation and expenses

The Board of Governors of the Federal Reserve System (hereinafter referred to as the "Board") shall be composed of seven members, to be appointed by the President, by and with the advice and consent of the Senate, after August 23, 1935, for terms of fourteen years except as hereinafter provided, but each appointive member of the Federal Reserve Board in office on such date shall continue to serve as a member of the Board until February 1, 1936, and the Secretary of the Treasury and the Comptroller of the Currency shall continue to serve as members of the Board until February 1, 1936. In selecting the members of the Board, not more than one of whom shall be selected from any one Federal Reserve district, the President shall have due regard to a fair representation of the financial, agricultural, industrial, and commercial interests, and geographical divisions of the country. The members of the Board shall devote their entire time to the business of the Board and shall each receive basic compensation at the rate of $16,000 per annum, payable monthly, together with actual necessary traveling expenses.

(Dec. 23, 1913, ch. 6, § 10, 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; Aug. 23, 1935, ch. 614, § 203(b), 49 Stat. 704.)

CODIFICATION

Section is comprised of first paragraph of act Dec. 23, 1913, § 10. Pars. 2–7 and 8 of section 10; par. 9 of section 10, as added June 3, 1922, ch. 205, 42 Stat. 621; and par. 10 of section 10, as added Aug. 23, 1935, ch. 614, § 203(d), 49 Stat. 705, are classified to sections 242 to 247, 1, 522, and 247a, respectively, of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, § 203(b), increased the appointive membership from six to seven, terminated the membership of the Secretary of the Treasury and the Comptroller of the Currency, raised the tenure from twelve to fourteen years and increased the annual salary from $12,000 to $15,000.

CHANGE OF NAME

Act Aug. 23, 1935, § 203(a), provided: "Hereafter the Federal Reserve Board shall be known as the 'Board of Governors of the Federal Reserve System,' and the governor and the vice governor of the Federal Reserve Board shall be known as the 'chairman' and the 'vice chairman,' respectively, of the Board of Governors of the Federal Reserve System."

REPEALS

Act Oct. 15, 1949, ch. 695, § 4, 63 Stat. 880, formerly cited to the text, was repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

COMPENSATION OF BOARD OF GOVERNORS

Annual basic compensation of Chairman and Members of Board of Governors, see sections 5313 and 5314 of Title 5, Government Organization and Employees.

§ 242. Ineligibility to hold office in member banks; qualifications and terms of office of members; chairman and vice chairman; oath of office

The members of the Board shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any member bank, except that this restriction shall not apply to a member who has served the full term for which he was appointed. Upon the expiration of the term of any appointive member of the Federal Reserve Board in office on August 23, 1935, the President shall fix the term of the successor to such member at not to exceed fourteen years, as designated by the President at the time of nomination, but in such manner as to provide for the expiration of the term of not more than one member in any two-year period, and thereafter each member shall hold office for a term of fourteen years from the expiration of the term of his predecessor, unless sooner removed for cause by the President. Of the persons thus appointed, one shall be designated by the President as chairman and one as vice chairman of the Board, to serve as such for a term of four years. The chairman of the Board, subject to its supervision, shall be its active executive officer. Each member of the Board shall within fifteen days after notice of appointment make and sub-

scribe to the oath of office. Upon the expiration of their terms of office, members of the Board shall continue to serve until their successors are appointed and have qualified. Any person appointed as a member of the Board after August 23, 1935, shall not be eligible for reappointment as such member after he shall have served a full term of fourteen years.

(Dec. 23, 1913, ch. 6, § 10, 38 Stat. 260; Mar. 3, 1919, ch. 101, § 2, 40 Stat. 1315; June 3, 1922, ch. 205, 42 Stat. 620; June 16, 1933, ch. 89, § 6(a), 48 Stat. 166; Aug. 23, 1935, ch. 614, § 203(b), 49 Stat. 704.)

CODIFICATION

Section is comprised of second paragraph of act Dec. 23, 1913, § 10. For classification to this title of other paragraphs of section 10, see note under section 241 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, § 203(b), extended term of appointive members from twelve to fourteen years, and added provisions for continuance in office until successor qualified and against reappointment.

1933—Act June 16, 1933, extended the term of appointive members from ten to twelve years.

CHANGE OF NAME

Act Aug. 23, 1935, § 203(a), changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

COMPENSATION OF CHAIRMAN OF BOARD

Annual basic compensation of Chairman of Board of Governors, see section 5313 of Title 5, Government Organization and Employees.

§ 243. Assessments upon Federal reserve banks to pay expenses

The Board of Governors of the Federal Reserve System shall have power to levy semiannually upon the Federal reserve banks, in proportion to their capital stock and surplus, an assessment sufficient to pay its estimated expenses and the salaries of its members and employees for the half year succeeding the levying of such assessment, together with any deficit carried forward from the preceding half year and such assessments may include amounts sufficient to provide for the acquisition by the Board in its own name of such site or building in the District of Columbia as in its judgement alone shall be necessary for the purpose of providing suitable and adequate quarters for the performance of its functions. After approving such plans, estimates, and specifications as it shall have caused to be prepared, the Board may, notwithstanding any other provision of law, cause to be constructed on the site so acquired by it a building suitable and adequate in its judgement for its purposes and proceed to take all such steps as it may deem necessary or appropriate in connection with the construction, equipment, and furnishing of such building. The Board may maintain, enlarge, or remodel any building so acquired or constructed and shall have sole control of such building and space therein.

(Dec. 23, 1913, ch. 6, § 10, 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; June 19, 1934, ch. 653, § 4, 48 Stat. 1108; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of third paragraph of act Dec. 23, 1913, § 10. For classification to this title of other paragraphs of section 10, see note under section 241 of this title.

AMENDMENTS

1934—Act June 19, 1934, added all following the words "the preceding half year" in the first sentence.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 244. Principal offices of Board; chairman of Board; obligations and expenses; qualifications of members; vacancies

The principal offices of the Board shall be in the District of Columbia. At meetings of the Board the chairman shall preside, and, in his absence, the vice chairman shall preside. In the absence of the chairman and the vice chairman, the Board shall elect a member to act as chairman pro tempore. The Board shall determine and prescribe the manner in which its obligations shall be incurred and its disbursements and expenses allowed and paid, and may leave on deposit in the Federal Reserve banks the proceeds of assessments levied upon them to defray its estimated expenses and the salaries of its members and employees, whose employment, compensation, leave, and expenses shall be governed solely by the provisions of this chapter and rules and regulations of the Board not inconsistent therewith; and funds derived from such assessments shall not be construed to be Government funds or appropriated moneys. No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any bank, banking institution, trust company, or Federal Reserve bank or hold stock in any bank, banking institution, or trust company; and before entering upon his duties as a member of the Board of Governors of the Federal Reserve System he shall certify under oath that he has complied with this requirement, and such certification shall be filed with the secretary of the Board. Whenever a vacancy shall occur, other than by expiration of term, among the seven members of the Board of Governors of the Federal Reserve System appointed by the President as above provided, a successor shall be appointed by the President, by and with the advice and consent of the Senate, to fill such vacancy, and when appointed he shall hold office for the unexpired term of his predecessor.

(Dec. 23, 1913, ch. 6, § 10, 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; June 16, 1933, ch. 89, § 6(b), 48 Stat. 167; Aug. 23, 1935, ch. 614, § 203(a), (b), (c), 49 Stat. 704, 705.)

REFERENCES IN TEXT

In the original, as amended, "this chapter" reads "this Act, specific amendments thereof", meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of fourth paragraph of act Dec. 23, 1913, § 10. For classification to this title of other

paragraphs of section 10, see Codification note under section 241 of this title.

Word "seven" was substituted for "six" in last sentence on authority of section 203(b) of act Aug. 23, 1935, which increased membership of the Board of Governors.

AMENDMENTS

1935—Act Aug. 23, 1935, § 203(c), substituted second and third sentences for former related provisions.

1933—Act June 16, 1933, fixed the principal offices of the Board, made the Secretary of the Treasury chairman, provided for chairman pro tempore, and referred to disbursements, obligations, salaries and leaves.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 245. Vacancies during recess of Senate

The President shall have power to fill all vacancies that may happen on the Board of Governors of the Federal Reserve System during the recess of the Senate by granting commissions which shall expire with the next session of the Senate.

(Dec. 23, 1913, ch. 6, § 10, 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 620; Aug. 23, 1935, ch. 614, § 203(a), 49, Stat. 704.)

CODIFICATION

Section is comprised of fifth paragraph of act Dec. 23, 1913, § 10. For classification to this title of other paragraphs of section 10, see Codification note under section 241 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 246. Powers of Secretary of Treasury as affected by chapter

Nothing in this chapter contained shall be construed as taking away any powers heretofore vested by law in the Secretary of the Treasury which relate to the supervision, management, and control of the Treasury Department and bureaus under such department, and wherever any power vested by this chapter in the Board of Governors of the Federal Reserve System or the Federal reserve agent appears to conflict with the powers of the Secretary of the Treasury, such powers shall be exercised subject to the supervision and control of the Secretary.

(Dec. 23, 1913, ch. 6, § 10, 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 621; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act", meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of sixth paragraph of act Dec. 23, 1913, § 10. For classification to this title of other paragraphs of section 10, see Codification note under section 241 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 247. Reports to Congress

The Board of Governors of the Federal Reserve System shall annually make a full report of its operations to the Speaker of the House of Representatives, who shall cause the same to be printed for the information of the Congress.

(Dec. 23, 1913, ch. 6, § 10, 38 Stat. 260; June 3, 1922, ch. 205, 42 Stat. 621; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of seventh paragraph of act Dec. 23, 1913, § 10. For classification to this title of other paragraphs of section 10, see Codification note under section 241 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 247a. Records of action on policy relating to open-market operation and policies determined generally; inclusion in report to Congress

The Board of Governors of the Federal Reserve System shall keep a complete record of the action taken by the Board and by the Federal Open Market Committee upon all questions of policy relating to open-market operations and shall record therein the votes taken in connection with the determination of open-market policies and the reasons underlying the action of the Board and the Committee in each instance. The Board shall keep a similar record with respect to all questions of policy determined by the Board, and shall include in its annual report to the Congress a full account of the action so taken during the preceding year with respect to open-market policies and operations and with respect to the policies determined by it and shall include in such report a copy of the records required to be kept under the provisions of this section.

(Dec. 23, 1913, ch. 6, § 10 (par.), as added Aug. 23, 1935, ch. 614, § 203(d), 49 Stat. 705.)

CODIFICATION

Section is comprised of tenth paragraph of act Dec. 23, 1913, § 10, as added Aug. 23, 1935. For classification to this title of other paragraphs of section 10, see Codification note under section 241 of this title.

§ 248. Enumerated powers

The Board of Governors of the Federal Reserve System shall be authorized and empowered:

(a) Examination of accounts and affairs of banks; publication of weekly statements

To examine at its discretion the accounts, books, and affairs of each Federal reserve bank and of each member bank and to require such statements and reports as it may deem necessary. The said board shall publish once each week a statement showing the condition of each Federal reserve bank and a consolidated statement for all Federal reserve banks. Such

statements shall show in detail the assets and liabilities of the Federal reserve banks, single and combined, and shall furnish full information regarding the character of the money held as reserve and the amount, nature, and maturities of the paper and other investments owned or held by Federal reserve banks.

(b) Permitting or requiring rediscounting of paper at specified rate

To permit, or, on the affirmative vote of at least five members of the Board of Governors, to require Federal reserve banks to rediscount the discounted paper of other Federal reserve banks at rates of interest to be fixed by the Board.

(c) Suspending reserve requirements

To suspend for a period not exceeding thirty days, and from time to time to renew such suspension for periods not exceeding fifteen days, any reserve requirements specified in this chapter.

(d) Supervising and regulating issue and retirement of notes

To supervise and regulate through the Bureau under the charge of the Comptroller of the Currency the issue and retirement of Federal Reserve notes, except for the cancellation and destruction, and accounting with respect to such cancellation and destruction, of notes unfit for circulation, and to prescribe rules and regulations under which such notes may be delivered by the comptroller to the Federal Reserve agents applying therefor.

(e) Adding to or reclassifying reserve cities

To add to the number of cities classified as reserve cities under existing law in which national banking associations are subject to the reserve requirements set forth in section 20 of this Act, or to reclassify existing reserve cities or to terminate their designation as such.

(f) Suspending or removing officers or directors of reserve banks

To suspend or remove any officer or director of any Federal reserve bank, the cause of such removal to be forthwith communicated in writing by the Board of Governors of the Federal Reserve System to the removed officer or director and to said bank.

(g) Requiring writing off of doubtful or worthless assets of banks

To require the writing off of doubtful or worthless assets upon the books and balance sheets of Federal reserve banks.

(h) Suspending operations of or liquidating or reorganizing banks

To suspend, for the violation of any of the provisions of this chapter, the operations of any Federal reserve bank, to take possession thereof, administer the same during the period of suspension, and, when deemed advisable, to liquidate or reorganize such bank.

(i) Requiring bonds of agents; safeguarding property in hands of agents

To require bonds of Federal reserve agents, to make regulations for the safeguarding of all collateral, bonds, Federal reserve notes, money, or property of any kind deposited in the hands of such agents, and said board shall perform the duties, functions, or services specified in this chapter, and make all rules and regulations necessary to enable said board effectively to perform the same.

(j) Exercising supervision over reserve banks

To exercise general supervision over said Federal reserve banks.

(k) Delegation of certain functions; power to delegate; review of delegated activities

To delegate, by published order or rule and subject to subchapter II of chapter 5, and chapter 7, of title 5, any of its functions, other than those relating to rulemaking or pertaining principally to monetary and credit policies, to one or more hearing examiners, members or employees of the Board, or Federal Reserve banks. The assignment of responsibility for the performance of any function that the Board determines to delegate shall be a function of the Chairman. The Board shall, upon the vote of one member, review action taken at a delegated level within such time and in such manner as the Board shall by rule prescribe.

(*l*) Employing attorneys, experts, assistants, and clerks; salaries and fees

To employ such attorneys, experts, assistants, clerks, or other employees as may be deemed necessary to conduct the business of the board. All salaries and fees shall be fixed in advance by said board and shall be paid in the same manner as the salaries of the members of said board.

(m) Percentage of capital and surplus represented by loans; determination by Board

Upon the affirmative vote of not less than six of its members the Board of Governors of the Federal Reserve System shall have power to fix from time to time for each Federal reserve district the percentage of individual bank capital and surplus which may be represented by loans secured by stock or bond collateral made by member banks within such district, but no such loan shall be made by any such bank to any person in an amount in excess of 10 per centum of the unimpaired capital and surplus of such bank: *Provided,* That with respect to loans represented by obligations secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, certificates of indebtedness of the United States, Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, such limitation of 10 per centum on loans to any person shall not apply, but State member banks shall be subject to the same limitations and conditions as are applicable in the case of national banks under paragraph (8) of section 84 of this title. Any percentage so fixed by the Board of Governors of the Federal Reserve System shall be subject to change from time to time upon ten days' notice, and it shall be the duty of the Board to establish such percentages with a view to preventing the undue use of bank loans for the speculative carrying of securities. The Board of Governors of the Federal Reserve System shall have power to direct any member bank to refrain from further increase of its loans secured by stock or bond collateral for any period up to one year under penalty of suspension of all rediscount privileges at Federal reserve banks.

(n) Exchange of gold coin, bullion, and certificates for other currency on order of Secretary of Treasury; costs; penalties

Whenever in the judgment of the Secretary of the Treasury such action is necessary to protect the currency system of the United States, the Secretary of the Treasury, in his discretion, may require any or all individuals, partnerships, associations, and corporations to pay and deliver to the Treasurer of the United States any or all gold coin, gold bullion, and gold certificates owned by such individuals, partnerships, associations, and corporations. Upon receipt of such gold coin, gold bullion or gold certificates, the Secretary of the Treasury shall pay therefor an equivalent amount of any other form of coin or currency coined or issued under the laws of the United States. The Secretary of the Treasury shall pay all costs of the transportation of such gold bullion, gold certificates, coin, or currency, including the cost of insurance, protection, and such other incidental costs as may be reasonably necessary. Any individual, partnership, association, or corporation failing to comply with any requirement of the Secretary of the Treasury made under this subsection shall be subject to a penalty equal to twice the value of the gold or gold certificates in respect of which such failure occurred, and such penalty may be collected by the Secretary of the Treasury by suit or otherwise.

(o) Rules and regulations for transfer of funds and charges therefor among banks; clearing houses

The Board of Governors of the Federal Reserve System shall make and promulgate from time to time regulations governing the transfer of funds and charges therefor among Federal reserve banks and their branches, and may at its discretion exercise the functions of a clearing house for such Federal reserve banks, or may designate a Federal reserve bank to exercise such functions, and may also require each such bank to exercise the functions of a clearing house for its member banks.

(Dec. 23, 1913, ch. 6, §§ 11, 16, 38 Stat. 261, 262, 265; Sept. 7, 1916, ch. 461, 39 Stat. 752; Sept. 26, 1918, ch. 177, § 2, 40 Stat. 968; Feb. 27, 1921, ch. 75, 41 Stat. 1146; June 26, 1930, ch. 612, 46 Stat. 814; Mar. 9, 1933, ch. 1, title I, § 3, 48 Stat. 2; June 16, 1933, ch. 89, § 7, 48 Stat. 167; Aug. 23, 1935, ch. 614, §§ 203(a), 321(a), 342, 49 Stat. 704, 713, 722; June 12, 1945, ch. 186, § 1(c), 59 Stat. 237; July 28, 1959, Pub. L. 86-114, § 3(b)(6), 73 Stat. 264; Sept. 9, 1959, Pub. L. 86-251, § 3(c), 73 Stat. 488; Sept. 28, 1962, Pub. L. 87-722, § 3, 76 Stat. 670; May 20, 1966, Pub. L. 89-427, § 2, 80 Stat. 161; Nov. 5, 1966, Pub. L. 89-765, 80 Stat. 1314; Mar. 18, 1968, Pub. L. 90-269, § 1, 82 Stat. 50.)

REFERENCES IN TEXT

In the original, as amended, "this chapter" reads "this Act", meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

Reference in subsec. (e) to "section 20 of this Act" means section 20 of the Federal Reserve Act which is not carried in the code. Since said section 20 does not set forth any reserve requirements, section 19 of the Federal Reserve Act, sections 142, 371a, 371b, 374, 374a, 461, 462, 463 to 466 of this title, might have been intended.

CODIFICATION

In subsec. (k), "subchapter II of chapter 5, and chapter 7, of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

Provisions of subsec. (*l*), which authorized appointment of attorneys, experts, assistants, clerks and other employees without regard to the provisions of the act of January sixteenth, eighteen hundred and eighty-three, and amendments thereto, or any rule or regulation made in pursuance thereof, were omitted as obsolete. Appointments in the executive branch are now subject to the civil service laws unless specifically excepted by such laws or by laws enacted subsequent to Executive Order No. 8743, Apr. 23, 1941, issued by the President pursuant to act Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees. All positions under the Board of Governors, Federal Reserve System are now excepted from the competitive service under Schedule A of the Civil Service Rules.

Section is comprised of section 11 and fourteenth par. of section 16 of act Dec. 23, 1913 (subsecs. (a) to (n) and (*o*), respectively, of this section). For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

AMENDMENTS

1968—Subsec. (c). Pub. L. 90-269 struck out requirements for establishment by the Board of Governors of the Federal Reserve System of a graduated tax on the deficiency in the gold reserve whenever the reserve held against Federal Reserve notes fell below 25 percent and for an automatic increase in the rates of interest or discount fixed by the Board in an amount equal to the graduated tax imposed.

1966—Subsec. (d). Pub. L. 89-427 excepted the cancellation and destruction, and the accounting with respect to the cancellation and destruction, of notes unfit for circulation from the area of responsibility exercised by the Board of Governors of the Federal Reserve System through the Bureau of the Comptroller of the Currency over the issue and retirement of Federal Reserve notes.

Subsec. (k). Pub. L. 89-765 added subsec. (k). A former subsec. (k) was repealed by Pub. L. 87-722, § 3, Sept. 28, 1962, 76 Stat. 670.

1962—Subsec. (k). Pub. L. 87-722 repealed subsec. (k), which related to the authority of the Board of Governors of the Federal Reserve System to permit national banks to act as trustees, etc., and is now covered by section 92a of this title.

1959—Subsec. (e). Pub. L. 86-114 substituted "reserve cities" for "reserve and central reserve cities" in two instances.

Subsec. (m). Pub. L. 86-251 deleted "in the form of notes" following "represented by obligations" in the proviso.

1945—Subsec. (c). Act June 12, 1945, substituted "25 per centum" for "40 per centum", and "20 per centum" for "32½ per centum" wherever appearing.

1935—Subsec. (k). Act Aug. 23, 1935, § 342, affected the last sentence of the third par.

Subsec. (m). Act Aug. 23, 1935, § 321(a), which inserted proviso at end of first sentence.

1933—Subsec. (m). Act June 16, 1933, amended provisions generally.

Subsec. (n). Act Mar. 9, 1933, added subsec. (n).

1930—Subsec. (k). Act June 26, 1930, added last par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-114 effective three years after July 28, 1959, see section 3(b) of Pub. L. 86-114, set out as a note under section 141 of this title.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignemnt of certain emergency preparedness functions to the Board of Governors of the Federal Reserve System, see Parts 1, 17, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Reconstruction Finance Corporation, referred to in former section 3 of Ex. Ord. No. 6359, set out under this section.

CROSS REFERENCES

Consolidation with state banks, see section 215 of this title.

Expansion of credit, see section 821 et seq. of Title 31, Money and Finance.

Federal reserve bank's liability under subsec. (h) for certification of check when amount of deposit is inadequate, see section 501 of this title.

Right to amend, separability of provisions, and ratification of acts done under act Mar. 9, 1933, see sections 212 and 213 of this title.

EX. ORD. NO. 6359. GOLD RECOVERED FROM NATURAL DEPOSITS

Ex. Ord. No. 6359, Oct. 25, 1933, as amended by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003, provided:

By virtue of the authority vested in me by section 5(b) of the act of October 6, 1917, [section 95a of this title], as amended by section 2, of the act of March 9, 1933, entitled "An Act to Provide Relief in the Existing National Emergency in Banking and for other Purposes", I, Franklin D. Roosevelt, President of the United States of America, do declare that a period of national emergency exists, and by virtue of said authority and of all other authority vested in me, do hereby issue the following Executive Order:

SECTION 1. REVOCATION OF EX. ORD. NO. 6261

The Executive order [No. 6261] of August 29, 1933, relating to the sale and export of gold recovered from natural deposits, is hereby revoked: *Provided, however,* That the Secretary of the Treasury is authorized to sell in accordance therewith gold received on consignment for sale on or before the date of this Executive order.

SECTION 2. RECEIPT OF GOLD BY UNITED STATES MINTS AND ASSAY OFFICES

The United States mints and assay offices are hereby authorized, subject to such regulations as may from time to time be prescribed by the Secretary of the Treasury, to receive on consignment gold which the mint or assay office to which the gold is delivered is satisfied has been recovered from natural deposits in the United States or any place subject to the jurisdiction thereof.

Sec. 3. [Revoked by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003].

Sec. 4. [Revoked by Ex. Ord. No. 11825, Dec. 31, 1974, 40 F.R. 1003].

SECTION 5. REGULATIONS

The Secretary of the Treasury is hereby authorized and empowered to issue such regulations as he may deem necessary to carry out the purposes of this Executive order.

SECTION 6. SAVINGS CLAUSE

This Executive order and any regulations issued hereunder may be modified or revoked at any time.

EX. ORD. NO. 10547. INSPECTION OF STATISTICAL TRANSCRIPT CARDS

Ex. Ord. No. 10547, July 27, 1954, 19 F.R. 4661, required statistical transcript cards submitted with, or prepared by the Internal Revenue Service from, corporation income tax returns for the taxable years ending after June 30, 1951, and before July 1, 1952, to be open to inspection by the Board of Governors of the Federal Reserve System as an aid in executing the powers conferred upon such Board by this section, such inspection to be in accordance and upon compliance with the rules and regulations prescribed by the Secretary of the Treasury in T.D. 6081, 19 F.R. 4666.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 212, 213, 348, 467, 501 of this title; title 5 section 5363.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-701 of the District of Columbia Code.

§ 249. Repealed. Pub. L. 94-412, title V, § 501(c), Sept. 14, 1976, 90 Stat. 1258

Section, act Aug. 8, 1947, ch. 517, 61 Stat. 921, dealt with regulation of consumer credit, and is now covered by section 1904 of this title.

SAVINGS PROVISION

Repeal by Pub. L. 94-412 not to affect any action taken or proceeding pending at the time of repeal, see section 501(h) of Pub. L. 94-412, set out as a note under section 1601 of Title 50, War and National Defense.

§ 250. Independence of financial regulatory agencies

No officer or agency of the United States shall have any authority to require the Securities and Exchange Commission, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, or the National Credit Union Administration to submit legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress if such recommendations, testimony, or comments to the Congress include a statement indicating that the views expressed therein are those of the agency submitting them and do not necessarily represent the views of the President.

(Pub. L. 93-495, title I, § 111, Oct. 28, 1974, 88 Stat. 1506.)

CODIFICATION

Section was not enacted as part of the Federal Reserve Act which comprises this chapter.

SUBCHAPTER III—FEDERAL ADVISORY COUNCIL

§ 261. Creation; membership; compensation; meetings; officers; procedure; quorum; vacancies

There is created a Federal Advisory Council, which shall consist of as many members as there are Federal reserve districts. Each Federal reserve bank by its board of directors shall annually select from its own Federal reserve district one member of said council, who shall receive such compensation and allowances as may be fixed by his board of directors subject to the approval of the Board of Governors of the Federal Reserve System. The meetings of said advisory council shall be held at Washington, District of Columbia, at least four times each year, and oftener if called by the Board of Governors of the Federal Reserve System. The council may in addition to the meetings above provided for hold such other meetings in Washington, District of Columbia, or elsewhere, as it may deem necessary, may select its own officers and adopt its own methods of procedure, and a majority of its members shall constitute a quorum for the transaction of business. Vacancies in the council shall be filled by the respective reserve banks, and members selected to fill vacancies shall serve for the unexpired term.

(Dec. 23, 1913, ch. 6, § 12, 38 Stat. 263; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of first par. of section 12 of act Dec. 23, 1913. Second par. of section 12 is classified to section 262 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 262. Powers

The Federal Advisory Council shall have power, by itself or through its officers, (1) to confer directly with the Board of Governors of the Federal Reserve System on general business conditions; (2) to make oral or written representations concerning matters within the jurisdiction of said board; (3) to call for information and to make recommendations in regard to discount rates, rediscount business, note issues, reserve conditions in the various districts, the purchase and sale of gold or securities by reserve banks, open-market operations by said banks, and the general affairs of the reserve banking system.

(Dec. 23, 1913, ch. 6, § 12, 38 Stat. 263; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of second par. of section 12 of act Dec. 23, 1913. First par. of section 12 is classified to section 261 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Gold coinage discontinued and existing gold coins withdrawn from circulation, see section 315b of Title 31, Money and Finance.

Provisions for payment of obligations in gold declared against public policy, see section 463 of Title 31.

SUBCHAPTER IV—FEDERAL OPEN MARKET COMMITTEE

§ 263. Federal Open Market Committee; creation; membership; regulations governing open-market transactions

(a) There is hereby created a Federal Open Market Committee (hereinafter referred to as the "Committee"), which shall consist of the members of the Board of Governors of the Federal Reserve System and five representatives of the Federal Reserve banks to be selected as hereinafter provided. Such representatives shall be presidents or first vice presidents of Federal Reserve banks and, beginning with the election for the term commencing March 1, 1943, shall be elected annually as follows: One by the board of directors of the Federal Reserve Bank of New York, one by the boards of directors of the Federal Reserve Banks of Boston, Philadelphia, and Richmond, one by the boards of directors of the Federal Reserve Banks of Cleveland and Chicago, one by the boards of directors of the Federal Reserve Banks of Atlanta, Dallas, and St. Louis, and one by the boards of directors of the Federal Reserve Banks of Minneapolis, Kansas City, and San Francisco. In such elections each board of directors shall have one vote; and the details of such elections may be governed by regulations prescribed by the committee, which may be amended from time to time. An alternate to serve in the absence of each such representative shall likewise be a president or first vice president of a Federal Reserve bank and shall be elected annually in the same manner. The meetings of said Committee shall be held at Washington, District of Columbia, at least four times each year upon the call of the chairman of the Board of Governors of the Federal Reserve System or at the request of any three members of the Committee.

(b) No Federal Reserve bank shall engage or decline to engage in open-market operations under sections 348a and 353 to 359 of this title except in accordance with the direction of and regulations adopted by the Committee. The Committee shall consider, adopt, and transmit to the several Federal Reserve banks, regulations relating to the open-market transactions of such banks.

(c) The time, character, and volume of all purchases and sales of paper described in sections 348a and 353 to 359 of this title as eligible for open-market operations shall be governed with a view to accommodating commerce and business and with regard to their bearing upon the general credit situation of the country.

(Dec. 23, 1913, ch. 6, § 12A, as added June 16, 1933, ch. 89, § 8, 48 Stat. 168, and amended Aug. 23, 1935, ch. 614, § 205, 49 Stat. 705; July 8, 1942, ch. 488, § 1, 56 Stat. 647.)

AMENDMENTS

1942—Subsec. (a). Act July 7, 1942, substituted second, third, and fourth sentences for former second and third sentences.

1935—Act Aug. 23, 1935, amended provisions relating to membership in subsec. (a), substituted "Committee" for "Federal Reserve Board" and "Board" in subsec. (b), and omitted subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 355 of this title.

SUBCHAPTER V—FEDERAL DEPOSIT INSURANCE CORPORATION

§ 264. Transferred

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, § 12B, as added June 16, 1933, ch. 89, § 8, 48 Stat. 168, and amended June 16, 1934, ch. 546, § 1 (1)-(10), 48 Stat. 969, 970; June 28, 1935, ch. 335, 49 Stat. 435; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 684; Apr. 21, 1936, ch. 244, 49 Stat. 1237; May 25, 1938, ch. 276, 52 Stat. 442; June 16, 1938, ch. 489, 52 Stat. 767; June 20, 1939, ch. 214, § 2, 53 Stat. 842; Apr. 13, 1943, ch. 62, § 1, 57 Stat. 65; Aug. 5, 1947, ch. 492, §§ 2, 4, 61 Stat. 773; June 25, 1948, ch. 645, § 21, 62 Stat. 862; Oct. 15, 1949, ch. 695, § 4, 63 Stat. 880; Aug. 17, 1950, ch. 729, §§ 5-7, 64 Stat. 457, relating to the Federal Deposit Insurance Corporation, was withdrawn from the Federal Reserve Act and made a separate act to be known as the Federal Deposit Insurance Act, by section 1 of act Sept. 21, 1950, ch. 967, 64 Stat. 873. The Federal Deposit Insurance Act is now classified to chapter 16 (§ 1811 et seq.) of this title.

§ 265. Insured banks as depositaries of public money; duties; security; discrimination between banks prohibited; repeal of inconsistent laws

All insured banks designated for that purpose by the Secretary of the Treasury shall be depositaries of public money of the United States (including, without being limited to, revenues and funds of the United States, and any funds the deposit of which is subject to the control or regulation of the United States or any of its officers, agents, or employees, and Postal Savings funds), and the Secretary is authroized to deposit public money in such depositaries, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government as may be required of them. The Secretary of the Treasury shall require of the insured banks thus designated satisfactory security by the deposit of United States bonds or otherwise, for the safekeeping and prompt payment of public money deposited with them and for the faithful performance of their duties as financial agents of the Government: *Provided,* That no such security shall be required for the safekeeping and prompt payment of such parts of the deposits of the public money in such banks as are insured deposits and each officer, employee, or agent of the United States having official custody of public funds and lawfully depositing the same in an insured bank shall, for the purpose of determining the amount of the insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the United States having official custody of public funds and lawfully depositing the same in the same insured bank in custodial capacity. Notwithstanding any other provision of law, no department, board, agency, instrumentality, officer, employee, or agent of the United States shall issue or permit to continue in effect any regulations, rulings, or instructions or enter into or approve any contracts or perform any other acts having to do with the deposit, disbursement, or expenditure of public funds, or the deposit, custody, or advance of funds subject to the control of the United States as trustee or otherwise which shall discriminate against or prefer national banking associations, State banks members of the Federal Reserve System, or insured banks not members of the Federal Reserve System, by class, or which shall require those enjoying the benefits, directly or indirectly, of disbursed public funds so to discriminate. All Acts or parts thereof in conflict herewith are repealed. The terms "insured bank" and "insured deposit" as used in this section shall be construed according to the definitions of such terms in section 1813 of this title.

(June 11, 1942, ch. 404, § 10, 56 Stat. 356; Sept. 3, 1954, ch. 1263, § 26, 68 Stat. 1235.)

AMENDMENTS

1954—Act Sept. 3, 1954, substituted "section 1813" for "section 264" in last sentence.

SUBCHAPTER VI—CAPITAL AND STOCK OF FEDERAL RESERVE BANKS; DIVIDENDS AND EARNINGS

§ 281. Capital

No Federal reserve bank shall commence business with a subscribed capital less than $4,000,000.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 282. Subscription to capital stock by national banking association

Every national banking association within each Federal reserve district shall be required to subscribe to the capital stock of the Federal reserve bank for that district in a sum equal to 6 per centum of the paid-up capital stock and surplus of such bank, one-sixth of the subscription to be payable on call of the Board of Governors of the Federal Reserve System, one-sixth within three months and one-sixth within six months thereafter, and the remainder of the subscription, or any part thereof, shall be subject to call when deemed necessary by the Board, said payments to be in gold or gold certificates.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Payment of obligations in gold prohibited, see section 463 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 283. Public subscription to capital stock

No individual, copartnership, or corporation other than a member bank of its district shall be permitted to subscribe for or to hold at any time more than $25,000 par value of stock in any Federal reserve bank. Such stock shall be known as public stock and may be transferred on the books of the Federal reserve bank by the chairman of the board of directors of such bank.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 284. Omitted

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251, was omitted as obsolete pursuant to a communication from the Board of Governors of the Federal Reserve System dated Mar. 7, 1941, which stated "As originally enacted the Federal Reserve Act provided for a Reserve Bank Organization Committee to have charge of the initial steps in organizing the Federal Reserve System and this Committee was authorized to allot Federal Reserve Bank stock to the United States in the event that subscriptions to such stock by banks and by the public were inadequate. However, subscriptions by member banks were adequate and there was no necessity or authority for the allocation of any stock to the United States. Accordingly, [this section] is now of no practical effect, and may be regarded as obsolete."

§ 285. Nonvoting stock

Stock not held by member banks shall not be entitled to voting power.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 286. Transfers of stock; rules and regulations

The Board of Governors of the Federal Reserve System is empowered to adopt and promulgate rules and regulations governing the transfers of said stock.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 287. Value of shares of stock; increase and decrease of stock; member banks as shareholders; surrender of shares

The capital stock of each Federal reserve bank shall be divided into shares of $100 each. The outstanding capital stock shall be increased from time to time as member banks increase their capital stock and surplus or as additional banks become members, and may be decreased as member banks reduce their capital stock or surplus or cease to be members. Shares of the capital stock of Federal reserve banks owned by member banks shall not be transferred or hypothecated. When a member bank increases its capital stock or surplus, it shall thereupon subscribe for an additional amount of capital stock of the Federal reserve bank of its district equal to 6 per centum of the said increase, one-half of said subscription to be paid in the manner hereinbefore provided for original subscription, and one-half subject to call of the Board of Governors of the Federal Reserve System. A bank applying for stock in a Federal reserve bank at any time after the organization thereof must subscribe for an amount of the capital stock of the Federal reserve bank equal to 6 per centum of the paid-up capital stock and surplus of said applicant bank, paying therefor its par value plus one-half of 1 per centum a month from the period of the last dividend. When a member bank reduces its capital stock or surplus it shall surrender a proportionate amount of its holdings in the capital stock of said Federal Reserve bank. Any member bank which holds capital stock of a Federal Reserve bank in excess of the amount required on the basis of 6 per centum of its paid-up capital stock and surplus shall surrender such excess stock. When a member bank voluntarily liquidates it shall surrender all of its holdings of the capital stock of said Federal Reserve bank and be released from its stock subscription not previously called. In any such case the shares surrendered shall be canceled and the member bank shall receive in payment therefor, under regulations to be prescribed by the Board of Governors of the Federal Reserve System, a sum equal to its cash-paid subscriptions on the shares surrendered and one-half of 1 per centum a month from the period of the last dividend not to exceed the book value thereof, less any liability of such member bank to the Federal Reserve bank.

(Dec. 23, 1913, ch. 6, § 5, 38 Stat. 257; Aug. 23, 1935, ch. 614, §§ 203(a), 319(a), 49 Stat. 704, 713.)

AMENDMENTS

1935—Act Aug. 23, 1935, § 319(a), affected the last four sentences.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 321 of this title.

§ 288. Cancellation of stock held by member bank on insolvency or discontinuance of banking operations for sixty days; repayment of cash-paid subscriptions

If any member bank shall be declared insolvent and a receiver appointed therefor, the stock held by it in said Federal reserve bank shall be canceled, without impairment of its liability, and all cash-paid subscriptions on said stock, with one-half of 1 per centum per month

from the period of last dividend, if earned, not to exceed the book value thereof, shall be first applied to all debts of the insolvent member bank to the Federal reserve bank, and the balance, if any, shall be paid to the receiver of the insolvent bank.

If any national bank which has not gone into liquidation as provided in section 181 of this title, and for which a receiver has not already been appointed for other lawful cause, shall discontinue its banking operations for a period of sixty days the Comptroller of the Currency may, if he deems it advisable, appoint a receiver for such bank. The stock held by the said national bank in the Federal reserve bank of its district shall thereupon be canceled and said national bank shall receive in payment therefor, under regulations to be prescribed by the Board of Governors of the Federal Reserve System, a sum equal to its cash-paid subscriptions on the shares canceled and one-half of 1 per centum a month from the period of the last dividend, if earned, not to exceed the book value thereof, less any liability of such national bank to the Federal reserve bank.

(Dec. 23, 1913, ch. 6, § 6, 38 Stat. 258; Apr. 23, 1930, ch. 207, § 1, 46 Stat. 250; Aug. 23, 1935, ch. 614, §§ 203(a), 319(b), 49 Stat. 704, 713.)

AMENDMENTS

1935—Act Aug. 23, 1935, § 319(b), omitted provision requiring execution of certificate of reduction of capital stock.

1930—Act Apr. 23, 1930, among other changes, added second par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 289. Dividends on stock of reserve banks; surplus fund

After all necessary expenses of a Federal reserve bank shall have been paid or provided for, the stockholders shall be entitled to receive an annual dividend of 6 per centum on the paid-in capital stock, which dividend shall be cumulative. After the aforesaid dividend claims have been fully met, the net earnings shall be paid into the surplus fund of the Federal reserve bank.

(Dec. 23, 1913, ch. 6, § 7, 38 Stat. 258; Mar. 3, 1919, ch. 101, § 1, 40 Stat. 1314; June 16, 1933, ch. 89, § 4, 48 Stat. 163.)

CODIFICATION

Section is comprised of first par. of section 7 of act Dec. 23, 1913. Second and third pars. of section 7 are classified to sections 290 and 531, respectively, of this title.

AMENDMENTS

1933—Act June 16, 1933, provided that net earnings shall be paid into surplus instead of to the United States as a franchise tax.

EFFECTIVE DATE OF 1933 AMENDMENT

Amendment by act June 16, 1933, was made effective July 1, 1932.

§ 290. Disposition of net earnings; disposition of surplus fund on dissolution or insolvency of reserve bank

The net earnings derived by the United States from Federal reserve banks shall, in the discretion of the Secretary, be used to supplement the gold reserve held against outstanding United States notes, or shall be applied to the reduction of the outstanding bonded indebtedness of the United States under regulations to be prescribed by the Secretary of the Treasury. Should a Federal reserve bank be dissolved or go into liquidation, any surplus remaining, after the payment of all debts, dividend requirements as hereinbefore provided, and the par value of the stock, shall be paid to and become the property of the United States and shall be similarly applied.

(Dec. 23, 1913, ch. 6, § 7, 38 Stat. 258.)

CODIFICATION

Section is comprised of second par. of section 7 of act Dec. 23, 1913. First and third pars. of section 7 are classified to sections 289 and 531, respectively, of this title.

SUBCHAPTER VII—DIRECTORS OF FEDERAL RESERVE BANKS; RESERVE AGENTS AND ASSISTANTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 442 of this title.

§ 301. Powers and duties of board of directors; suspension of member bank for undue use of bank credit

Every Federal reserve bank shall be conducted under the supervision and control of a board of directors.

The board of directors shall perform the duties usually appertaining to the office of directors of banking associations and all such duties as are prescribed by law.

Said board of directors shall administer the affairs of said bank fairly and impartially and without discrimination in favor of or against any member bank or banks and may, subject to the provisions of law and the orders of the Board of Governors of the Federal Reserve System, extend to each member bank such discounts, advancements, and accommodations as may be safely and reasonably made with due regard for the claims and demands of other members banks, the maintenance of sound credit conditions, and the accommodation of commerce, industry, and agriculture. The Board of Governors of the Federal Reserve System may prescribe regulations further defining within the limitations of this chapter the conditions under which discounts, advancements, and the accommodations may be extended to member banks. Each Federal reserve bank shall keep itself informed of the general character and amount of the loans and investments of its member banks with a view to ascertaining whether undue use is being made of bank credit for the speculative carrying of or

trading in securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions; and, in determining whether to grant or refuse advances, rediscounts, or other credit accommodations, the Federal reserve bank shall give consideration to such information. The chairman of the Federal reserve bank shall report to the Board of Governors of the Federal Reserve System any such undue use of bank credit by any member bank, together with his recommendation. Whenever, in the judgment of the Board of Governors of the Federal Reserve System, any member bank is making such undue use of bank credit, the Board may, in its discretion, after reasonable notice and an opportunity for a hearing, suspend such bank from the use of the credit facilities of the Federal Reserve System and may terminate such suspension or may renew it from time to time.

(Dec. 23, 1913, ch. 6, § 4, 38 Stat. 254, June 16, 1933, ch. 89, § 3(a), 48 Stat. 163; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of pars. 6 to 8 of section 4 of act Dec. 23, 1913.

Pars. 1 to 3 and 25 of section 4 were omitted from the code as executed.

Pars. 4 and 5, 9 to 12, 13 to 15, 16 to 21, 22, 24, and 26 of section 4, and par. 23, of section 4, as added June 21, 1917, ch. 32, § 2, 40, Stat. 232, are classified to sections 341, 302, 303, 304, 305, 307, 308, and 306, respectively, of this title.

AMENDMENTS

1933—Act June 16, 1933, among other changes, added all after first sentence in third par.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Powers of Board of Governors of the Federal Reserve System, see section 248 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 302. Number of members; classes

Such board of directors shall be selected as hereinafter specified and shall consist of nine members, holding office for three years, and divided into three classes, designated as classes A, B, and C.

Class A shall consist of three members, who shall be chosen by and be representative of the stockholding banks.

Class B shall consist of three members, who at the time of their election shall be actively engaged in their district in commerce, agriculture, or some other industrial pursuit.

Class C shall consist of three members who shall be designated by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 4, 38 Stat. 254; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of pars. 9 to 12 of section 4 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 4, see Codification note under section 301 of this title.

Provisions of section which related to appointment of Class C directors when the necessary subscriptions to the capital stock have been obtained for the organization of any Federal Reserve Bank and which required the organization committee to exercise the powers and duties appertaining to the office of chairman in the organization of such Federal Reserve Bank pending the designation of a chairman, were omitted as obsolete.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 303. Qualifications and disabilities

No Senator or Representative in Congress shall be a member of the Board of Governors of the Federal Reserve System or an officer or a director of a Federal reserve bank.

No director of class B shall be an officer, director, or employee of any bank.

No director of class C shall be an officer, director, employee, or stockholder of any bank.

(Dec. 23, 1913, ch. 6, § 4, 38 Stat. 254; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of pars. 13 to 15 of section 4 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 4, see Codification note under section 301 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 304. Class A and class B directors; selection

Directors of class A and class B shall be chosen in the following manner: The Board of Governors of the Federal Reserve System shall classify the member banks of the district into three general groups or divisions designating each group by number. Each group shall consist as nearly as may be of banks of similar capitalization. Each member bank shall be permitted to nominate to the chairman of the board of directors of the Federal reserve bank of the district one candidate for director of class A and one candidate for director of class B. The candidates so nominated shall be listed by the chairman, indicating by whom nominated, and a copy of said list shall, within fifteen days after its completion, be furnished by the chairman to each member bank. Each member bank by a resolution of the board or by an amendment to its bylaws shall authorize its president, cashier, or some other officer to cast the vote of the member bank in the elections of class A

and class B directors: *Provided*, That whenever any member banks within the same Federal Reserve district are subsidiaries of the same bank holding company within the meaning of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], participation in any such nomination or election by such member banks, including such bank holding company if it is also a member bank, shall be confined to one of such banks, which may be designated for the purpose by such holding company.

Within fifteen days after receipt of the list of candidates the duly authorized officer of a member bank shall certify to the chairman his first, second, and other choices for director of class A and class B, respectively, upon a preferential ballot upon a form furnished by the chairman of the board of directors of the Federal reserve bank of the district. Each such officer shall make a cross opposite the name of the first, second, and other choices for a director of class A and for a director of class B, but shall not vote more than one choice for any one candidate. No officer or director of a member bank shall be eligible to serve as a class A director unless nominated and elected by banks which are members of the same group as the member bank of which he is an officer or director.

Any person who is an officer or director of more than one member bank shall not be eligible for nomination as a class A director except by banks in the same group as the bank having the largest aggregate resources of any of those of which such person is an officer or director.

Any candidate having a majority of all votes cast in the column of first choice shall be declared elected. If no candidate have a majority of all the votes in the first column, then there shall be added together the votes cast by the electors for such candidates in the second column and the votes cast for the several candidates in the first column. The candidate then having a majority of the electors voting and the highest number of combined votes shall be declared elected. If no candidate have a majority of electors voting and the highest number of votes when the first and second choices shall have been added, then the votes cast in the third column for other choices shall be added together in like manner, and the candidate then having the highest number of votes shall be declared elected. An immediate report of election shall be declared.

(Dec. 23, 1913, ch. 6, § 4, 38 Stat. 254; Sept. 26, 1918, ch. 177, § 1, 40 Stat. 967; June 26, 1930, ch. 614, 46 Stat. 815; June 16, 1933, ch. 89, § 3(b), 48 Stat. 163; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; July 1, 1966, Pub. L. 89-485, § 13(e), 80 Stat. 243.)

REFERENCES IN TEXT

The Bank Holding Company Act of 1956, referred to in text, is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§ 1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables volume.

CODIFICATION

Section is comprised of pars. 16 to 21 of section 4 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 4, see Codification note under section 301 of this title.

AMENDMENTS

1966—Pub. L. 89-485 substituted proviso restricting participation in nomination or election of directors by member banks to one member bank whenever any member banks within the same Federal reserve district are subsidiaries of the same bank holding company, such member bank to be designated for the purpose by the holding company for former proviso restricting the selection of directors by member banks to one member bank when two or more member banks within the same Federal reserve district are affiliated with the same holding company affiliate, such member bank to be designated for such purpose by the holding company affiliate.

1933—Act June 16, 1933, added proviso at end of second par.

1930—Act June 26, 1930, affected last par.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 305. Class C directors; selection; "Federal reserve agent"

Class C directors shall be appointed by the Board of Governors of the Federal Reserve System. They shall have been for at least two years residents of the district for which they are appointed, one of whom shall be designated by said board as chairman of the board of directors of the Federal reserve bank and as "Federal reserve agent." He shall be a person of tested banking experience and in addition to his duties as chairman of the board of directors of the Federal reserve bank he shall be required to maintain, under regulations to be established by the Board of Governors of the Federal Reserve System, a local office of said board on the premises of the Federal reserve bank. He shall make regular reports to the Board of Governors of the Federal Reserve System and shall act as its official representative for the performance of the functions conferred upon it by this chapter. He shall receive an annual compensation to be fixed by the Board of Governors of the Federal Reserve System and paid monthly by the Federal reserve bank to which he is designated. One of the directors of class C shall be appointed by the Board of Governors of the Federal Reserve System as deputy chairman to exercise the powers of the chairman of the board when necessary. In case of the absence of the chairman and deputy chairman, the third class C director shall preside at meetings of the board.

(Dec. 23, 1913, ch. 6, § 4, 38 Stat. 254; June 21, 1917, ch. 32, § 2, 40 Stat. 232; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of par. 22 of section 4 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 4, see Codification note under section 301 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 306. Assistants to Federal reserve agent

Subject to the approval of the Board of Governors of the Federal Reserve System, the Federal reserve agent shall appoint one or more assistants. Such assistants, who shall be persons of tested banking experience, shall assist the Federal reserve agent in the performance of his duties and shall also have power to act in his name and stead during his absence or disability. The Board of Governors of the Federal Reserve System shall require such bonds of the assistant Federal reserve agents as it may deem necessary for the protection of the United States. Assistants to the Federal reserve agent shall receive an annual compensation, to be fixed and paid in the same manner as that of the Federal reserve agent.

(Dec. 23, 1913, ch. 6, § 4 (par.), as added June 21, 1917, ch. 32, § 2, 40 Stat. 232, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of par. 23 of section 4 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other paragraphs of section 4, see Codification note under section 301 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 307. Compensation of directors

Directors of Federal reserve banks shall receive, in addition to any compensation otherwise provided, a reasonable allowance for necessary expenses in attending meetings of their respective boards, which amount shall be paid by the respective Federal reserve banks. Any compensation that may be provided by boards of directors of Federal reserve banks for directors, officers, or employees shall be subject to the approval of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 4, 38 Stat. 254; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of par. 24 of section 4 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 4, see Codification note under section 301 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 308. Terms of directors; vacancies

At the first meeting of the full board of directors of each Federal reserve bank, it shall be the duty of the directors of classes A, B, and C, respectively, to designate one of the members of each class whose term of office shall expire in one year from the 1st of January nearest to date of such meeting, one whose term of office shall expire at the end of two years from said date, and one whose term of office shall expire at the end of three years from said date. Thereafter every director of a Federal reserve bank chosen as hereinbefore provided shall hold office for a term of three years. Vacancies that may occur in the several classes of directors of Federal reserve banks may be filled in the manner provided for the original selection of such directors, such appointees to hold office for the unexpired terms of their predecessors.

(Dec. 23, 1913, ch. 6, § 4, 38 Stat. 254.)

CODIFICATION

Section is comprised of par. 26 of section 4 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 4, see Codification note under section 301 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

SUBCHAPTER VIII—STATE BANKS AS MEMBERS OF SYSTEM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 349, 377, 501, 1818 of this title.

§ 321. Application for membership

Any bank incorporated by special law of any State, or organized under the general laws of any State or of the United States, including Morris Plan banks and other incorporated banking institutions engaged in similar business, desiring to become a member of the Federal Reserve System, may make application to the Board of Governors of the Federal Reserve System, under such rules and regulations as it may prescribe, for the right to subscribe to the stock of the Federal Reserve bank organized within the district in which the applying bank is located. Such application shall be for the same amount of stock that the applying bank would be required to subscribe to as a national bank. For the purposes of membership of any such bank the terms "capital" and "capital stock" shall include the amount of outstanding capital notes and debentures legally issued by the applying bank and purchased by the Reconstruction Finance Corporation. The Board of Governors of the Federal Reserve System, subject to the provisions of this title and to such conditions as it may prescribe pursuant thereto may permit the applying bank to become a stockholder of such Federal Reserve bank.

Upon the conversion of a national bank into a State bank, or the merger or consolidation of a national bank with a State bank which is not a member of the Federal Reserve System, the resulting or continuing State bank may be admitted to membership in the Federal Reserve System by the Board of Governors of the Federal Reserve System in accordance with the

provisions of this section, but, otherwise, the Federal Reserve bank stock owned by the national bank shall be canceled and paid for as provided in section 287 of this title. Upon the merger or consolidation of a national bank with a State member bank under a State charter, the membership of the State bank in the Federal Reserve System shall continue.

Any such State bank which on February 25, 1927, has established and is operating a branch or branches in conformity with the State law, may retain and operate the same while remaining or upon becoming a stockholder of such Federal Reserve bank; but no such State bank may retain or acquire stock in a Federal Reserve bank except upon relinquishment of any branch or branches established after February 25, 1927, beyond the limits of the city, town, or village in which the parent bank is situated: *Provided, however,* That nothing herein contained shall prevent any State member bank from establishing and operating branches in the United States or any dependency or insular possession thereof or in any foreign country, on the same terms and conditions and subject to the same limitations and restrictions as are applicable to the establishment of branches by national banks except that the approval of the Board of Governors of the Federal Reserve System, instead of the Comptroller of the Currency, shall be obtained before any State member bank may hereafter establish any branch and before any State bank hereafter admitted to membership may retain any branch established after February 25, 1927, beyond the limits of the city, town, or village in which the parent bank is situated. The approval of the Board shall likewise be obtained before any State member bank may establish any new branch within the limits of any such city, town, or village (except within the District of Columbia).

(Dec. 23, 1913, ch. 6, § 9, 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 232; Feb. 25, 1927, ch. 191, § 9, 44 Stat. 1229; June 16, 1933, ch. 89, § 5(a), (b), 48 Stat. 164; June 16, 1934, ch. 546, § 2, 48 Stat. 971; Aug. 23, 1935, ch. 614, §§ 203(a), 338, 49 Stat. 704, 721; Aug. 17, 1950, ch. 729, § 8, 64 Stat. 458; July 15, 1952, ch. 753, § 2(a), 66 Stat. 633.)

REFERENCES IN TEXT

In the original "this title" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

First par. of this section is based on first par. of section 9 of act Dec. 23, 1913, as amended June 21, 1917. Pars. 2 to 11 of section 9 of act Dec. 23, 1913, as amended June 21, 1917; par. 12 of section 9 of act Dec. 23, 1913, as added May 7, 1928; and pars. 13 to 20 of section 9 of act Dec. 23, 1913, as added June 16, 1933, are classified to sections 322 to 331, 332, 333 to 336, former section 337, and section 338, respectively, of this title.

AMENDMENTS

1952—Act July 15, 1952, added last sentence to third par.

1950—Act Aug. 17, 1950, permitted application for membership in the Federal Reserve System by the State bank resulting from a conversion, merger, or consolidation transaction involving a national bank, except where the national bank merges or consolidates with a State bank already a member of System in which case the membership continues.

1935—Act Aug. 23, 1935, § 338, added words at the end of section beginning "except that the approval of the Board of Governors".

1934—Act June 16, 1934, added third sentence in first par.

1933—Act June 16, 1933, inserted the words "including Morris Plan banks and other incorporated banking institutions engaged in similar business" in first sentence and added proviso to second par. through the words "branches of national banks".

1927—Act Feb. 25, 1927, added second par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Reconstruction Finance Corporation.

CROSS REFERENCES

Member banks of Federal reserve as subject to penalties under sections 321 to 329, 330 to 336, 338, see section 501 of this title.

§ 322. Determination on application

In acting upon such application the Board of Governors of the Federal Reserve System shall consider the financial condition of the applying bank, the general character of its management, and whether or not the corporate powers exercised are consistent with the purposes of this chapter.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 232, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of par. 2 of section 9 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 323. Stock in Federal reserve banks; method of payment

Whenever the Board of Governors of the Federal Reserve System shall permit the applying bank to become a stockholder in the Federal reserve bank of the district its stock subscrip-

tion shall be payable on call of the Board of Governors of the Federal Reserve System, and stock issued to it shall be held subject to the provisions of this chapter.

(Dec. 23, 1913, ch. 6, § 9, 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 232; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of said Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of par. 3 of section 9 of act Dec. 23, 1913, as amended June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 324. Laws applicable on becoming members

All banks admitted to membership under authority of this section shall be required to comply with the reserve and capital requirements of this chapter, to conform to those provisions of law imposed on national banks which prohibit such banks from lending on or purchasing their own stock and which relate to the withdrawal or impairment of their capital stock, and to conform to the provisions of sections 56 and 60(b) of this title with respect to the payment of dividends; except that any reference in any such provision to the Comptroller of the Currency shall be deemed for the purposes of this sentence to be a reference to the Board of Governors of the Federal Reserve System. Such banks and the officers, agents, and employees thereof shall also be subject to the provisions of and to the penalties prescribed by sections 334, 656, and 1005 of title 18, and shall be required to make reports of condition and of the payment of dividends to the Federal Reserve bank of which they become a member. Not less than three of such reports shall be made annually on call of the Federal Reserve bank on dates to be fixed by the Board of Governors of the Federal Reserve System. Failure to make such reports within ten days after the date they are called for shall subject the offending bank to a penalty of $100 a day for each day that it fails to transmit such report; such penalty to be collected by the Federal Reserve bank by suit or otherwise. Such reports of condition shall be in such form and shall contain such information as the Board of Governors of the Federal Reserve System may require and shall be published by the reporting banks in such manner and in accordance with such regulations as the said Board may prescribe.

(Dec. 23, 1913, ch. 6, § 9, 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 232; Aug. 23, 1935, ch. 614, § 320, 49 Stat. 713; Sept. 3, 1954, ch. 1263, § 27, 68 Stat. 1236; Sept. 8, 1959, Pub. L. 86-230, § 21(b), 73 Stat. 466.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of par. 4 of section 9 of act Dec. 23, 1913, as amended June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

AMENDMENTS

1959—Pub. L. 86-230 required State member banks to comply with section 60(b) of this title and inserted provisions requiring a reference to the Comptroller of the Currency to be deemed a reference to the Board of Governors of the Federal Reserve System.

1954—Act Sept. 3, 1954, substituted "sections 334, 656, and 1005 of title 18" for "section 592 of this title", and "Board of Governors of the Federal Reserve System" for "Federal Reserve Board".

1935—Act Aug. 23, 1935 added last sentence of section.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 325. Examinations

As a condition of membership such banks shall likewise be subject to examinations made by direction of the Board of Governors of the Federal Reserve System or of the Federal reserve bank by examiners selected or approved by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 232, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of par. 5 of section 9 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 326. Acceptance of examinations and reports by State authorities; special examinations

Whenever the directors of the Federal reserve bank shall approve the examinations made by the State authorities, such examinations and the reports thereof may be accepted in lieu of examinations made by examiners selected or approved by the Board of Governors of the Federal Reserve System: *Provided, however,* That when it deems it necessary the board may order special examinations by examiners of its own selection and shall in all cases approve the form of the report. The expenses of all examinations, other than those made by State authorities, may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against the banks examined and, when so assessed, shall be paid by the banks examined. Copies of the reports of such

examinations may, in the discretion of the Board of Governors of the Federal Reserve System, be furnished to the State authorities having supervision of such banks, to officers, directors, or receivers of such banks, and to any other proper persons.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 232, and amended June 26, 1930, ch. 611, § 1, 46 Stat. 814; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of par. 6 of section 9 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

AMENDMENTS

1930—Act June 26, 1930, affected next to last sentence and added last sentence.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 327. Surrender of stock and cancellation of memberships

If at any time it shall appear to the Board of Governors of the Federal Reserve System that a member bank has failed to comply with the provisions of this subchapter, or the regulations of the Board of Governors of the Federal Reserve System made pursuant thereto, or has ceased to exercise banking functions without a receiver or liquidating agent having been appointed therefor, it shall be within the power of the board after hearing to require such bank to surrender its stock in the Federal reserve bank and to forfeit all rights and privileges of membership. The Board of Governors of the Federal Reserve System may restore membership upon due proof of compliance with the conditions imposed by this subchapter.

(Dec. 23, 1913, ch. 6, § 9, 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 232; Apr. 23, 1930, ch. 207, § 2, 46 Stat. 251; Aug. 23, 1935, ch. 614, § 203 (a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this section" meaning section 9 of act Dec. 23, 1913, which is classified to sections 321 to 338 of this title.

CODIFICATION

Section is comprised of par. 7 of section 9 of act Dec. 23, 1913, as amended June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

AMENDMENTS

1930—Act Apr. 23, 1930, added "or has ceased to exercise banking functions without a receiver or liquidating agent having been appointed therefor," to first sentence.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Number of directors of State bank or trust company, violation as subjecting to forfeiture of membership in Federal Reserve System under this section, see section 71a of this title.

Termination of membership in Federal Deposit Insurance Corporation as ground for terminating membership in Federal Reserve System, see section 1818 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 71a of this title.

§ 328. Withdrawals from membership

Any State bank or trust company desiring to withdraw from membership in a Federal Reserve bank may do so, after six months' written notice shall have been filed with the Board of Governors of the Federal Reserve System, upon the surrender and cancellation of all of its holdings of capital stock in the Federal reserve bank: *Provided,* That the Board of Governors of the Federal Reserve System, in its discretion and subject to such conditions as it may prescribe, may waive such six months' notice in individual cases and may permit any such State bank or trust company to withdraw from membership in a Federal reserve bank prior to the expiration of six months from the date of the written notice of its intention to withdraw: *Provided, however,* That no Federal reserve bank shall, except under express authority of the Board of Governors of the Federal Reserve System, cancel within the same calendar year more than 25 per centum of its capital stock for the purpose of effecting voluntary withdrawals during that year. All such applications shall be dealt with in the order in which they are filed with the board. Whenever a member bank shall surrender its stock holdings in a Federal reserve bank, or shall be ordered to do so by the Board of Governors of the Federal Reserve System, under authority of law, all of its rights and privileges as a member bank shall thereupon cease and determine, and after due provision has been made for any indebtedness due or to become due to the Federal reserve bank it shall be entitled to a refund of its cash-paid subscription with interest at the rate of one-half of 1 per centum per month from date of last dividend, if earned, the amount refunded in no event to exceed the book value of the stock at that time, and shall likewise be entitled to repayment of deposits and of any other balance due from the Federal reserve bank.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 232, and amended Apr. 17, 1930, ch. 175, 46 Stat. 170; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of par. 8 of section 9 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

AMENDMENTS

1930—Act Apr. 17, 1930, affected part of section preceding second proviso.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 329. Capital stock required as condition precedent to membership

No applying bank shall be admitted to membership unless it possesses capital stock and surplus which, in the judgment of the Board of Governors of the Federal Reserve System, are adequate in relation to the character and condition of its assets and to its existing and prospective deposit liabilities and other corporate responsibilities: *Provided,* That no bank engaged in the business of receiving deposits other than trust funds, which does not possess capital stock and surplus in an amount equal to that which would be required for the establishment of a national banking association in the place in which it is located, shall be admitted to membership unless it is, or has been, approved for deposit insurance under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.]. The capital stock of a State member bank shall not be reduced except with the prior consent of the Board.

(Dec. 23, 1913, ch. 6, § 9, 38 Stat. 259; June 21, 1917, ch. 32, § 3, 40 Stat. 232; Mar. 4, 1923, ch. 252, title IV, § 401, 42 Stat. 1478; June 16, 1933, ch. 89, § 17(b), 48 Stat. 185; July 15, 1952, ch. 753, § 1, 66 Stat. 633.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in the text, is classified to chapter 16 (§ 1811 et seq.) of this title.

CODIFICATION

Section is comprised of par. 9 of section 9 of act Dec. 23, 1913, as amended June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

AMENDMENTS

1952—Act July 15, 1952, vested in the Board of Governors discretion with respect to admission of State banks to membership.

1933—Act June 16, 1933, dropped the alternative method of meeting the capital requirement and added the proviso.

§ 329a. Omitted

CODIFICATION

Section, act Dec. 23, 1913, ch. 6, § 9 (par.), as added Aug. 23, 1935, ch. 614, § 202, 49 Stat. 704, related to waiver of the requirements of sections 321 to 336, former section 337, and section 338 of this title for admission to membership in the case of a bank which was required to become a member of the Federal Reserve System under a former provision of subsection (y) of former section 264 of this title, which provision was repealed by act June 20, 1939, ch. 214, § 2, 53 Stat. 842.

§ 330. Laws applicable on becoming members; discounts for State banks

Banks becoming members of the Federal reserve system under authority of this subchapter shall be subject to the provisions of said sections and to those of this chapter which relate specifically to member banks, but shall not be subject to examination under the provisions of sections 481 and 482 of this title. Subject to the provisions of this chapter and to the regulations of the board made pursuant thereto, any bank becoming a member of the Federal reserve system shall retain its full charter and statutory rights as a State bank or trust company, and may continue to exercise all corporate powers granted it by the State in which it was created, and shall be entitled to all privileges of member banks: *Provided, however,* That no Federal reserve bank shall be permitted to discount for any State bank or trust company notes, drafts, or bills of exchange of any one borrower who is liable for borrowed money to such State bank or trust company in an amount greater than that which could be borrowed lawfully from such State bank or trust company were it a national banking association. The Federal reserve bank, as a condition of the discount of notes, drafts, and bills of exchange for such State bank or trust company, shall require a certificate or guaranty to the effect that the borrower is not liable to such bank in excess of the amount provided by this subchapter, and will not be permitted to become liable in excess of this amount while such notes, drafts, or bills of exchange are under discount with the Federal reserve bank.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 232, and amended July 1, 1922, ch. 274, 42 Stat. 821.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this section" meaning section 9 of act Dec. 23, 1913, which is classified to sections 321 to 338 of this title.

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of par. 10 of section 9 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

§ 331. Certifying checks on State banks admitted as members

It shall be unlawful for any officer, clerk, or agent of any bank admitted to membership under authority of this subchapter, to certify any check drawn upon such bank unless the person or company drawing the check has on deposit therewith at the time such check is certified an amount of money equal to the amount specified in such check. Any check so certified by duly authorized officers shall be a good and valid obligation against such bank, but the act of any such officer, clerk, or agent in violation of this subchapter, may subject such bank to a forfeiture of its membership in the Federal reserve system upon hearing by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 21, 1917, ch. 32, § 3, 40 Stat. 232, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this section" meaning section 9 of act Dec.

23, 1913, which is classified to sections 321 to 338 of this title.

CODIFICATION

Section is comprised of par. 11 of section 9 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 332. Depositaries of public money; financial agents; security required

All banks or trust companies incorporated by special law or organized under the general laws of any State, which are members of the Federal reserve system, when designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public money and financial agents of the Government, as may be required of them. The Secretary of the Treasury shall require of the banks and trust companies thus designated satisfactory security, by the deposit of United States bonds or otherwise, for the safe keeping and prompt payment of the public money deposited with them and for the faithful performance of their duties as financial agents of the Government.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added May 7, 1928, ch. 507, 45 Stat. 492.)

CODIFICATION

Section is comprised of par. 12 of section 9 of act Dec. 23, 1913, as added May 7, 1928. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

§ 333. Mutual savings banks; application and admission to membership in Federal Reserve System

Any mutual savings bank having no capital stock (including any other banking institution the capital of which consists of weekly or other time deposits which are segregated from all other deposits and are regarded as capital stock for the purposes of taxation and the declaration of dividends), but having surplus and undivided profits not less than the amount of capital required for the organization of a national bank in the same place, may apply for and be admitted to membership in the Federal Reserve System in the same manner and subject to the same provisions of law as State banks and trust companies, except that any such savings bank shall subscribe for capital stock of the Federal reserve bank in an amount equal to six-tenths of 1 per centum of its total deposit liabilities as shown by the most recent report of examination of such savings bank preceding its admission to membership. Thereafter such subscription shall be adjusted semiannually on the same percentage basis in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System. If any such mutual savings bank applying for membership is not permitted by the laws under which it was organized to purchase stock in a Federal reserve bank, it shall, upon admission to the system, deposit with the Federal reserve bank an amount equal to the amount which it would have been required to pay in on account of a subscription to capital stock. Thereafter such deposit shall be adjusted semiannually in the same manner as subscriptions for stock. Such deposits shall be subject to the same conditions with respect to repayment as amounts paid upon subscriptions to capital stock by other member banks and the Federal reserve bank shall pay interest thereon at the same rate as dividends are actually paid on outstanding shares of stock of such Federal reserve bank. If the laws under which any such savings bank was organized be amended so as to authorize mutual savings banks to subscribe for Federal reserve bank stock, such savings bank shall thereupon subscribe for the appropriate amount of stock in the Federal reserve bank, and the deposit hereinbefore provided for in lieu of payment upon capital stock shall be applied upon such subscription. If the laws under which any such savings bank was organized be not amended at the next session of the legislature following the admission of such savings bank to membership so as to authorize mutual savings banks to purchase Federal reserve bank stock, or if such laws be so amended and such bank fail within six months thereafter to purchase such stock, all of its rights and privileges as a member bank shall be forfeited and its membership in the Federal Reserve System shall be terminated in the manner prescribed in this subchapter with respect to State member banks and trust companies. Each such mutual savings bank shall comply with all the provisions of law applicable to State member banks and trust companies, with the regulations of the Board of Governors of the Federal Reserve System and with the conditions of membership prescribed for such savings bank at the time of admission to membership, except as otherwise hereinbefore provided with respect to capital stock.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 164, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this section" meaning section 9 of act Dec. 23, 1913, which is classified to sections 321 to 338 of this title.

CODIFICATION

Section is comprised of par. 13 of section 9 of act Dec. 23, 1913, as added June 16, 1933. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 334. Reports from affiliates; penalty for failure to furnish

Each bank admitted to membership under this subchapter shall obtain from each of its affiliates other than member banks and furnish to the Federal reserve bank of its district and to

the Board of Governors of the Federal Reserve System not less than three reports during each year. Such reports shall be in such form as the Board of Governors of the Federal Reserve System may prescribe, shall be verified by the oath or affirmation of the president or such other officer as may be designated by the board of directors of such affiliate to verify such reports, and shall disclose the information hereinafter provided for as of dates identical with those fixed by the Board of Governors of the Federal Reserve System for reports of the condition of the affiliated member bank. Each such report of an affiliate shall be transmitted as herein provided at the same time as the corresponding report of the affiliated member bank, except that the Board of Governors of the Federal Reserve System may, in its discretion, extend such time for good cause shown. Each such report shall contain such information as in the judgment of the Board of Governors of the Federal Reserve System shall be necessary to disclose fully the relations between such affiliate and such bank and to enable the board to inform itself as to the effect of such relations upon the affairs of such bank. The reports of such affiliates shall be published by the bank under the same conditions as govern its own condition reports.

Any such affiliated member bank may be required to obtain from any such affiliate such additional reports as in the opinion of its Federal reserve bank or the Board of Governors of the Federal Reserve System may be necessary in order to obtain a full and complete knowledge of the condition of the affiliated member bank. Such additional reports shall be transmitted to the Federal reserve bank and the Board of Governors of the Federal Reserve System and shall be in such form as the Board of Governors of the Federal Reserve System may prescribe.

Any such affiliated member bank which fails to obtain from any of its affiliates and furnish any report provided for by the two preceding paragraphs of this section shall be subject to a penalty of $100 for each day during which such failure continues, which, by direction of the Board of Governors of the Federal Reserve System, may be collected, by suit or otherwise, by the Federal reserve bank of the district in which such member bank is located.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 165, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; July 1, 1966, Pub. L. 89-485, § 13(f), 80 Stat. 243.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this section" meaning section 9 of act Dec. 23, 1913, which is classified to sections 321 to 338 of this title.

CODIFICATION

Section is comprised of pars. 14 to 16 of section 9 of act Dec. 23, 1913, as added June 16, 1933. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

AMENDMENTS

1966—Pub. L. 89-485 struck out the last sentence of the third par. stating that the term "affiliate" shall include holding company affiliates as well as other affiliates for the purposes of such par. and the preceding two pars.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 335. Dealing in investment securities; limitations and conditions

State member banks shall be subject to the same limitations and conditions with respect to the purchasing, selling, underwriting, and holding of investment securities and stock as are applicable in the case of national banks under paragraph "Seventh" of section 24 of this title.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 165.)

CODIFICATION

Section is comprised of par. 17 of section 9 of act Dec. 23, 1913, as added June 16, 1933. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

§ 336. Certificates of stock; representation of stock of other corporations

After August 23, 1935, no certificate evidencing the stock of any State member bank shall bear any statement purporting to represent the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934, in holding the bank premises of such member bank, nor shall the ownership, sale, or transfer of any certificate representing the stock of any State member bank be conditioned in any manner whatsoever upon the ownership, sale, or transfer of a certificate representing the stock of any other corporation, except a member bank or a corporation engaged on June 16, 1934 in holding the bank premises of such member bank: *Provided,* That this subchapter shall not operate to prevent the ownership, sale, or transfer of stock of any other corporation being conditioned upon the ownership, sale, or transfer of a certificate representing stock of a State member bank.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 165, and amended Aug. 23, 1935, ch. 614, § 31[illegible]), 49 Stat. 710.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this section" meaning section 9 of act Dec. 23, 1913, which is classified to sections 321 to 338 of this title.

CODIFICATION

Section is comprised of par. 18 of section 9 of act Dec. 23, 1913, as added June 16, 1933. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, among other changes, added proviso.

§ 337. Repealed. Pub. L. 89-485, § 13(g), July 1, 1966, 80 Stat. 243

Section, act Dec. 23, 1913, ch. 6, § 9 (par.) as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 166, required agreements of State member banks with holding com-

pany affiliates to be subject to voting restrictions and to provide for forfeiture of membership on failure to file agreement.

§ 338. Examination of affiliates; forfeiture of membership on refusal of affiliate to give information or pay expense

In connection with examinations of State member banks, examiners selected or approved by the Board of Governors of the Federal Reserve System shall make such examinations of the affairs of all affiliates of such banks as shall be necessary to disclose fully the relations between such banks and their affiliates and the effect of such relations upon the affairs of such banks. The expense of examination of affiliates of any State member bank may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against such bank and, when so assessed, shall be paid by such bank. In the event of the refusal to give any information requested in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, or in the event of the refusal to pay any expenses so assessed, the Board of Governors of the Federal Reserve System may, in its discretion, require any or all State member banks affiliated with such affiliate to surrender their stock in the Federal Reserve bank and to forfeit all rights and privileges of membership in the Federal Reserve System, as provided in this subchapter.

(Dec. 23, 1913, ch. 6, § 9 (par.), as added June 16, 1933, ch. 89, § 5(c), 48 Stat. 166, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this section" meaning section 9 of act Dec. 23, 1913, which is classified to sections 321 to 338 of this title.

CODIFICATION

Section is comprised of par. 20 of section 9 of act Dec. 23, 1913, as added June 16, 1933. For classification to this title of other paragraphs of section 9, see Codification note under section 321 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 339. Participation by state member banks in lotteries and related activities

(a) Prohibited activities

A State member bank may not—

(1) deal in lottery tickets;

(2) deal in bets used as a means or substitute for participation in a lottery;

(3) announce, advertise, or publicize the existence of any lottery;

(4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

A State member bank may not permit—

(1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a) of this section, or

(2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a) of this section.

(c) Definitions

As used in this section—

(1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting.

(2) The term "lottery" includes any arrangement whereby three or more persons (the "particpants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection;

(B) a game, race, or contest; or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

(3) The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(d) Lawful banking services connected with operation of lottery

Nothing contained in this section prohibits a State member bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Board of Governors of the Federal Reserve System shall issue such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(Dec. 13, 1913, ch. 6, § 9A, as added Dec. 15, 1967, Pub. L. 90-203, § 2, 81 Stat. 609.)

CODIFICATION

Section was enacted as section 9A of act Dec. 13, 1913, and not as part of section 9 of such act which comprises this subchapter.

EFFECTIVE DATE

Section effective Apr. 1, 1968, see section 6 of Pub. L. 90-203, set out as a note under section 25a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1306.

SUBCHAPTER IX—POWERS AND DUTIES OF FEDERAL RESERVE BANKS

§ 341. General enumeration of powers

Upon the filing of the organization certificate with the Comptroller of the Currency a Federal Reserve bank shall become a body corporate and as such, and in the name designated in such organization certificate, shall have power—

First. To adopt and use a corporate seal.

Second. To have succession after February 25, 1927, until dissolved by Act of Congress or until forfeiture of franchise for violation of law.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law or equity.

Fifth. To appoint by its board of directors a president, vice presidents, and such officers and employees as are not otherwise provided for in this chapter, to define their duties, require bonds for them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. The president shall be the chief executive officer of the bank and shall be appointed by the board of directors, with the approval of the Board of Governors of the Federal Reserve System, for a term of five years; and all other executive officers and all employees of the bank shall be directly responsible to him. The first vice president of the bank shall be appointed in the same manner and for the same term as the president, and shall, in the absence or disability of the president or during a vacancy in the office of president, serve as chief executive officer of the bank. Whenever a vacancy shall occur in the office of the president or the first vice president, it shall be filled in the manner provided for original appointments; and the person so appointed shall hold office until the expiration of the term of his predecessor.

Sixth. To prescribe by its board of directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

Seventh. To exercise by its board of directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this chapter and such incidental powers as shall be necessary to carry on the business of banking within the limitations prescribed by this chapter.

Eighth. Upon deposit with the Treasurer of the United States of any bonds of the United States in the manner provided by existing law relating to national banks, to receive from the Comptroller of the Currency circulating notes in blank, registered and countersigned as provided by law, equal in amount to the par value of the bonds so deposited, such notes to be issued under the same conditions and provisions of law as relate to the issue of circulating notes of national banks secured by bonds of the United States bearing the circulating privilege, except that the issue of such notes shall not be limited to the capital stock of such Federal Reserve bank.

But no Federal Reserve bank shall transact any business except such as is incidental and necessarily preliminary to its organization until it has been authorized by the Comptroller of the Currency to commence business under the provisions of this chapter.

(Dec. 23, 1913, ch. 6, § 4, 38 Stat. 254; Feb. 25, 1927, ch. 191, § 18, 44 Stat. 1234; Aug. 23, 1935, ch. 614, § 201, 49 Stat. 703.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of pars. 4 and 5 of section 4 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 4, see Codification note under section 301 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, affected the fifth power.
1927—Act Feb. 25, 1927, affected the second power.

EFFECTIVE DATE OF 1935 AMENDMENT

Act Aug. 23, 1935, provided in part that the amendment of this section should be effective Mar. 1, 1936.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note under section 121 of this title.

CROSS REFERENCES

Jurisdiction of suits to which a Federal reserve bank is a party, see section 632 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 442 of this title.

§ 342. Deposits; exchange and collection; member and nonmember banks; charges

Any Federal Reserve bank may receive from any of its member banks, and from the United States, deposits of current funds in lawful money, national-bank notes, Federal Reserve notes, or checks, and drafts, payable upon presentation, and also, for collection, maturing notes and bills; or, solely for purposes of exchange or of collection, may receive from other Federal Reserve banks deposits of current funds in lawful money, national-bank notes, or checks upon other Federal Reserve banks, and checks and drafts, payable upon presentation within its district, and maturing notes and bills payable within its district; or, solely for the purposes of exchange or of collection, may receive from any nonmember bank or trust company deposits of current funds in lawful money, national-bank notes, Federal Reserve notes, checks and drafts payable upon presentation, or maturing notes and bills: *Provided,* Such nonmember bank or trust company maintains with the Federal Reserve bank of its district a balance sufficient to offset the items in transit held for its account by the Federal Reserve bank: *Provided further,* That nothing in this or any other section of this chapter shall be construed as prohibiting a member or nonmember bank from making reasonable charges, to be determined and regulated by the Board of Governors of the Federal Reserve System, but in no case to exceed 10 cents per $100 or fraction thereof, based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission therefor by exchange or otherwise; but no such charges shall be made against the Federal Reserve banks.

(Dec. 23, 1913, ch. 6, § 13, 38 Stat. 263; Sept. 7, 1916, ch. 461, 39 Stat. 752; June 21, 1917, ch. 32, § 4, 40 Stat. 234; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412 of this title.

§ 343. Discount of obligations arising out of actual commercial transactions

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; that is, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used, or are to be used, for such purposes, the Board of Governors of the Federal Reserve System to have the right to determine or define the character of the paper thus eligible for discount, within the meaning of this chapter. Nothing in this chapter contained shall be construed to prohibit such notes, drafts, and bills of exchange, secured by staple agricultural products, or other goods, wares, or merchandise from being eligible for such discount, and the notes, drafts, and bills of exchange of factors issued as such making advances exclusively to producers of staple agricultural products in their raw state shall be eligible for such discount; but such definition shall not include notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States. Notes, drafts, and bills admitted to discount under the terms of this paragraph must have a maturity at the time of discount of not more than ninety days, exclusive of grace.

In unusual and exigent circumstances, the Board of Governors of the Federal Reserve System, by the affirmative vote of not less than five members, may authorize any Federal reserve bank, during such periods as the said board may determine, at rates established in accordance with the provisions of section 357 of this title, to discount for any individual, partnership, or corporation, notes, drafts, and bills of exchange of the kinds and maturities made eligible for discount for member banks under other provisions of this chapter when such notes, drafts, and bills of exchange are indorsed or otherwise secured to the satisfaction of the Federal reserve bank: *Provided,* That before discounting any such note, draft, or bill of exchange for an individual or a partnership or corporation the Federal reserve bank shall obtain evidence that such individual, partnership, or corporation is unable to secure adequate credit accommodations from other banking institutions. All such discounts for individuals, partnerships, or corporations shall be subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe.

(Dec. 23, 1913, ch. 6, § 13, 38 Stat. 263; Sept. 7, 1916, ch. 461, 39 Stat. 752; Mar. 4, 1923, ch. 252, title IV, § 402, 42 Stat. 1478; July 21, 1932, ch. 520, § 210, 47 Stat. 715; Aug. 23, 1935, ch. 614, §§ 203(a), 322, 49 Stat. 704, 714.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this code, see Distribution note under section 226 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, § 322, substituted the words immediately preceding the proviso for the words "indorsed and otherwise secured to the satisfaction of the Federal reserve bank."

1932—Act July 21, 1932, added second par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Notes on loans for construction of residential or farm buildings eligible for discount under this section, see section 371 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 371, 412 of this title.

§ 344. Discount or purchase of bills to finance agricultural shipments

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, and subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, any Federal reserve bank may discount or purchase bills of exchange payable at sight or on demand which grow out of the domestic shipment or the exportation of nonperishable, readily marketable agricultural and other staples and are secured by bills of lading or other shipping documents conveying or securing title to such staples: *Provided,* That all such bills of exchange shall be forwarded promptly for collection, and demand for payment shall be made with reasonable promptness after the arrival of such staples at their destination: *Provided further,* That no such bill shall in any event be held by or for the account of a Federal reserve bank for a period in excess of ninety days. In discounting such bills Federal reserve banks may compute the interest to be deducted on the basis of the estimated life of each bill and adjust the discount after payment of such bills to conform to the actual life thereof.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Mar. 4, 1923, ch. 252, title IV, § 402, 42 Stat. 1479, and amended May 29, 1928, ch. 884, 45 Stat. 975; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

AMENDMENTS

1928—Act May 29, 1928, amended part of first sentence preceding the proviso.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 412 of this title.

§ 345. Rediscount of notes, drafts, and bills for member banks; limitation of amount

The aggregate of notes, drafts, and bills upon which any person, copartnership, association, or corporation is liable as maker, acceptor, indorser, drawer, or guarantor, rediscounted for any member bank, shall at no time exceed the amount for which such person, copartnership, association, or corporation may lawfully become liable to a national banking association under the terms of section 84 of this title: *Provided, however,* That nothing in this section shall be construed to change the character or class of paper now eligible for rediscount by Federal reserve banks.

(Dec. 23, 1913, ch. 6, § 13, 38 Stat. 263; Mar. 3, 1915, ch. 93, 38 Stat. 958; Sept. 7, 1916, ch. 461, 39 Stat. 752; Apr. 12, 1930, ch. 140, 46 Stat. 162.)

AMENDMENTS

1930—Act Apr. 12, 1930, among other changes, added proviso.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412 of this title.

§ 346. Discount of acceptances

Any Federal reserve bank may discount acceptances of the kinds hereinafter described, which have a maturity at the time of discount of not more than ninety days' sight, exclusive of days of grace, and which are indorsed by at least one member bank: *Provided,* That such acceptances if drawn for an agricultural purpose and secured at the time of acceptance by warehouse receipts or other such documents conveying or securing title covering readily marketable staples may be discounted with a maturity at the time of discount of not more than six months' sight exclusive of days of grace.

(Dec. 23, 1913, ch. 6, § 13, 38 Stat. 263; Mar. 3, 1915, ch. 93, 38 Stat. 958; Sept. 7, 1916, ch. 461, 39 Stat. 752; Mar. 4, 1923, ch. 252, title IV, § 403, 42 Stat. 1479.)

REFERENCES IN TEXT

Words "hereinafter described" are from the fourth paragraph of section 13 of the Federal Reserve Act. Reference could be to acceptances described in the remaining paragraphs of section 13, which are contained in sections 82, 347, 347c, and 372 of this title, or to acceptances described in subsequent sections of the Federal Reserve Act, sections 14 et seq. of act Dec. 23, 1913.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412 of this title.

§ 347. Advances to member banks on their notes

Any Federal reserve bank may make advances for periods not exceeding fifteen days to its member banks on their promissory notes secured by the deposit or pledge of bonds, notes, certificates of indebtedness, or Treasury bills of the United States, or by the deposit or pledge of debentures or other such obligations of Federal intermediate credit banks which are eligible for purchase by Federal reserve banks under section 350 of this title, or by the deposit or pledge of bonds issued under the provisions of subsection (c) of section 1463 of this title; and any Federal reserve bank may make advances for periods not exceeding ninety days to its member banks on their promissory notes secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal reserve banks under the provisions of this chapter or secured by such obligations as are eligible for purchase under section 355 of this title. All such advances shall be made at rates to be established by such Federal reserve banks, such rates to be subject to the review and determination of the Board of Governors of the Federal Reserve System. If any member bank to which any such advance has been made shall, during the life or continuance of such advance, and despite an official warning of the reserve bank of the district or of the Board of Governors of the Federal Reserve System to the contrary, increase its outstanding loans secured by collateral in the form of stocks, bonds, debentures, or other such obligations, or loans made to members of any organized stock exchange, investment house, or dealer in securities, upon any obligation, note, or bill, secured or unsecured, for the purpose of purchasing and/or carrying stocks, bonds, or other investment securities (except obligations of the United States) such advance shall be deemed immediately due and payable, and such member bank shall be ineligible as a borrower at the reserve bank of the district under the provisions of this section for such period as the Board of Governors of the Federal Reserve System shall determine: *Provided,* That no temporary carrying or clearance loans made solely for the purpose of facilitating the purchase or delivery of securities offered for public subscription shall be included in the loans referred to in this section.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Mar. 3, 1915, ch. 93, 38 Stat. 958, and amended Sept. 7, 1916, ch. 461, 39 Stat. 753; May 19, 1932, ch. 191, § 6, 47 Stat. 160; May 12, 1933, ch. 25, title II, § 28, 48 Stat. 46; June 16, 1933, ch. 89, § 9, 48 Stat. 180; Jan. 31, 1934, ch. 7, § 16(a), 48 Stat. 348; Apr. 27, 1934, ch. 168, § 7(a), 48 Stat. 646; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; Oct. 4, 1961, Pub. L. 87-353, § 3(c), 75 Stat. 773; Sept. 21, 1968, Pub. L. 90-505, § 3(a), 82 Stat. 856.)

REFERENCES IN TEXT

Section 1463 of this title, referred to in the text, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648.

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

AMENDMENTS

1968—Pub. L. 90-505 added promissory notes of members banks secured by such obligations as are eligible for purchase under section 355 of this title to the list of types of promissory notes of member banks on which the Federal reserve bank may make advances for periods not exceeding 90 days.

1961—Pub. L. 87-353 struck out provision authorizing any Federal reserve bank to make advances to its member banks on their promissory notes secured by the deposit or pledge of Federal Farm Mortgage Corporation bonds issued under the Federal Farm Mortgage Corporation Act.

1934—Act Apr. 27, 1934, inserted the first phrase preceding the semicolon in the first sentence.

Act Jan. 31, 1934, inserted the second phrase preceding the semicolon in the first sentence.

1933—Act June 16, 1933, amended section generally.

Act May 12, 1933, added Federal farm-loan bonds as security for advances.

1932—Act May 19, 1932, added clause in the first sentence which begins "or by the deposit or pledge of debentures."

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412 of this title.

§ 347a. Advances to member bank groups; inadequate amounts of eligible and acceptable assets; liability of individual banks in group; distribution of loans among banks of group; rate of interest; notes accepted for advances as collateral security for Federal reserve notes; foreign obligations as security for advances

Upon receiving the consent of not less than five members of the Board of Governors of the Federal Reserve System, any Federal reserve bank may make advances, in such amount as the board of directors of such Federal reserve bank may determine, to groups of five or more member banks within its district, a majority of them independently owned and controlled, upon their time or demand promissory notes, provided the bank or banks which receive the proceeds of such advances as herein provided have no adequate amounts of eligible and acceptable assets available to enable such bank or banks to obtain sufficient credit accommodations from the Federal reserve bank through rediscounts or advances other than as provided in section 347b of this title. The liability of the individual banks in each group must be limited to such proportion of the total amount advanced to such group as the deposit liability of the respective banks bears to the aggregate deposit liability of all banks in such group, but such advances may be made to a lesser number of such member banks if the aggregate amount of their deposit liability constitutes at least 10 per centum of the entire deposit liability of the member banks within such district. Such banks shall be authroized to distribute the proceeds of such loans to such of their number and in such amount as they may agree upon, but before so doing they shall require such recipient banks to deposit with a suitable trustee, representing the entire group, their individual notes made in favor of the group protected by such collateral security as may be agreed upon. Any Federal reserve bank making such advance shall charge interest or discount thereon at a rate not less than 1 per centum above its discount rate in effect at the time of making such advance. No such note upon which advances are made by a Federal reserve bank under this section shall be eligible under section 412 of this title as collateral security for Federal reserve notes.

No obligations of any foreign government, individual, partnership, association, or corporation organized under the laws thereof shall be eligible as collateral security for advances under this section.

Member banks are authorized to obligate themselves in accordance with the provisions of this section.

(Dec. 23, 1913, ch. 6, § 10(a), as added Feb. 27, 1932, ch. 58, § 1, 47 Stat. 56, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 347b. Advances to individual member banks on time or demand notes; maturities; interest; time notes secured by mortgage loans covering one-to-four family residences

Any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time or demand notes having maturities of not more than four months and which are secured to the satisfaction of such Federal Reserve bank. Each such note shall bear interest at a rate not less than one-half of 1 per centum per annum higher than the highest discount rate in effect at such Federal Reserve bank on the date of such note. Notwithstanding the foregoing, any Federal Reserve bank, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, may make advances to any member bank on its time notes having such maturities as the Board may prescribe and which are secured by mortgage loans covering a one-to-four family residence. Such advances shall bear interest at a rate equal to the lowest discount rate in effect at such Federal Reserve bank on the date of such note.

(Dec. 23, 1913, ch. 6, § 10(b), as added Feb. 27, 1932, ch. 58, § 2, 47 Stat. 56, and amended Feb. 3, 1933, ch. 34, 47 Stat. 794; Mar. 9, 1933, ch. 1, title IV, § 402, 48 Stat. 7; Aug. 23, 1935, ch. 614, § 204, 49 Stat. 705; Oct. 18, 1974, Pub. L. 93-449, § 5, 88 Stat. 1368.)

AMENDMENTS

1974—Pub. L. 93-449 added provisions relating to advances on time notes secured by mortgage loans covering one-to-four family residences.

1935—Act Aug. 23, 1935, eliminated provision prescribing termination date of section.

1933—Act Mar. 9, 1933, omitted a proviso theretofore contained, extended its applicability to member banks regardless of their capital, and empowered the President to extend its termination date one year beyond March 3, 1934.

Act Feb. 3, 1933, extended the termination date from "March 3, 1933" to "March 3, 1934".

EXPIRATION

Proclamation No. 2076, Feb. 16, 1934, 48 Stat. 1734, extended section to Mar. 3, 1935. See 1935 amendment note above.

CROSS REFERENCES

Right to amend, separability of provisions, and ratification of acts done under act Mar. 9, 1933, see sections 212 and 213 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 212, 213, 347a of this title.

§ 347c. Advances to individuals, partnerships, and corporations; security; interest rate

Subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe, any Federal reserve bank may make advances to any individual, partnership, or corporation on the promissory notes of such individual, partnership, or corporation secured by direct obligations of the United States or by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by any agency of the United States. Such advances shall be made for periods not exceeding 90 days and shall bear interest at rates fixed from time to time by the Federal reserve bank, subject to the review and determination of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 13 (par.), as added Mar. 9, 1933, ch. 1, title IV, § 403, 48 Stat. 7, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; Sept. 21, 1968, Pub. L. 90-505, § 3(b), 82 Stat. 856.)

AMENDMENTS

1968—Pub. L. 90-505 added promissory notes secured by any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States to the list of types of promissory notes on which federal reserve banks may make advances to individuals, partnerships, and corporations.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Right to amend, separability of provisions, and ratification of acts done under act Mar. 9, 1933, see sections 212 and 213 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 212, 213, 412 of this title.

§ 347d. Omitted

CODIFICATION

Section, act Mar. 9, 1933, ch. 1, § 404, as added Mar. 24, 1933, ch. 8, § 1, 48 Stat. 20, related to direct loans to state banks and trust companies, and by its own terms was effective for only one year following date of its enactment.

§ 348. Discount of obligations given for agricultural purposes or based upon livestock; collateral security for Federal reserve notes

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may, subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, discount notes, drafts, and bills of exchange issued or drawn for an agricultural purpose, or based upon livestock, and having a maturity, at the time of discount, exclusive of days of grace, not exceeding nine months, and such notes, drafts, and bills of exchange may be offered as collateral security for the issuance of Federal reserve notes under the provisions of section 16 of this Act: *Provided*, That notes, drafts, and bills of exchange with maturities in excess of six months shall not be eligible as a basis for the issuance of Federal reserve notes unless secured by warehouse receipts or other such negotiable documents conveying or securing title to readily marketable staple agricultural products or by chattel mortgage upon livestock which is being fattened for market.

(Dec. 23, 1913, ch. 6, § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1479, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Section 16 of this Act, referred to in text, means section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note under section 411 of this title.

CODIFICATION

Section is comprised of first par. of section 13a, as added Mar. 4, 1923. Pars. 2 to 5 of section 13a are set out as sections 349 to 352 of this title, respectively.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Rediscount of notes, drafts, and bills mentioned in this section for intermediate credit banks, see section 349 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 349, 351 of this title.

§ 348a. Transactions with foreign banks; supervision of Board of Governors of the Federal Reserve System

The Board of Governors of the Federal Reserve System shall exercise special supervision over all relationships and transactions of any kind entered into by any Federal reserve bank with any foreign bank or banker, or with any group of foreign banks or bankers, and all such relationships and transactions shall be subject to such regulations, conditions, and limitations as the Board may prescribe. No officer or other representative of any Federal reserve bank shall conduct negotiations of any kind with the officers or representatives of any foreign bank or banker without first obtaining the permission of the Board of Governors of the Federal Reserve System. The Board of Governors of the Federal Reserve System shall have the right, in its discretion, to be represented in any conference or negotiations by such representa-

tive or representatives as the Board may designate. A full report of all conferences or negotiations, and all understandings or agreements arrived at or transactions agreed upon, and all other material facts appertaining to such conferences or negotiations, shall be filed with the Board of Governors of the Federal Reserve System in writing by a duly authorized officer of each Federal reserve bank which shall have participated in such conferences or negotiations.

(Dec. 23, 1913, ch. 6, § 14(g), as added June 16, 1933, ch. 89, § 10, 48 Stat. 181, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 349. Rediscount for intermediate credit banks of obligations given for agricultural purposes; discount of notes made pursuant to section 1031

Any Federal reserve bank may, subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, rediscount such notes, drafts, and bills mentioned in section 348 of this title for any Federal intermediate credit bank, except that no Federal reserve bank shall rediscount for a Federal intermediate credit bank any such note or obligation which bears the indorsement of a nonmember State bank or trust company which is eligible for membership in the Federal reserve system in accordance with subchapter VIII of this chapter. Any Federal reserve bank may also, subject to regulations and limitations to be prescribed by the Board of Governors of the Federal Reserve System, discount notes payable to and bearing the indorsement of any Federal intermediate credit bank covering loans or advances made by such bank pursuant to the provisions of section 1031 of this title which have maturities at the time of discount of not more than nine months, exclusive of days of grace, and which are secured by notes, drafts, or bills of exchange eligible for rediscount by Federal Reserve banks.

(Dec. 23, 1913, ch. 6, § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1479, and amended May 19, 1932, ch. 191, § 5, 47 Stat. 160; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Subchapter VIII of this chapter, referred to in text, read in the original "section 9 of this Act", which is classified to sections 321 to 338 of this title.

Section 1031 of this title, referred to in text, was repealed by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624, and is now covered by section 2074 of this title.

CODIFICATION

Section is comprised of second par. of section 13a, as added Mar. 4, 1923. Pars. 1, 3 to 5 of section 13a are set out as sections 348, 349 to 352 of this title, respectively.

AMENDMENTS

1932—Act May 19, 1932, added last sentence.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 351 of this title.

§ 350. Purchase and sale of debentures and like obligations of intermediate credit banks and agricultural credit corporations

Any Federal reserve bank may also buy and sell debentures and other such obligations issued by a Federal intermediate credit bank or by a national agricultural credit corporation, but only to the same extent as and subject to the same limitations as those upon which it may buy and sell bonds issued under title I of the Federal Farm Loan Act.

(Dec. 23, 1913, ch. 6, § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1479.)

REFERENCES IN TEXT

Title I of the Federal Farm Loan Act, referred to in text, is title I of act July 17, 1916, ch. 245, 39 Stat. 360. Title I was classified to chapter 7 (§ 641 et seq.) of this title, and was repealed by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

CODIFICATION

Section is comprised of third par. of section 13a, as added Mar. 4, 1923. Pars. 1, 2, 4 and 5 of section 13a are set out as sections 348, 349, 351 and 352 of this title, respectively.

NATIONAL AGRICULTURAL CREDIT CORPORATION

Title II of the Agricultural Credits Act, act Mar. 4, 1923, title II, §§ 201 to 217, 42 Stat. 1461, which authorized the creation of national agricultural credit corporations, was repealed by Pub. L. 86-230, Sept. 18, 1959, § 24, 73 Stat. 466. Prior to such repeal, act June 16, 1933, § 77, 48 Stat. 292, had prohibited the creation, after June 16, 1933, of national agricultural credit corporations authorized to be formed under the Agricultural Credits Act.

CROSS REFERENCES

Advances to member banks on their notes, see section 347 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 347, 351 of this title.

§ 351. Obligations of cooperative marketing association as issued or drawn for agricultural purposes

Notes, drafts, bills of exchange, or acceptances issued or drawn by cooperative marketing associations composed of producers of agricultural products shall be deemed to have been issued or drawn for an agricultural purpose, within the meaning of sections 348 and 349 to 352 of this title, if the proceeds thereof have been or are to be advanced by such association to any members thereof for an agricultural purpose, or have been or are to be used by such association in making payments to any members thereof on account of agricultural products delivered by such members to the association, or if such proceeds have been or are to be used by

such association to meet expenditures incurred or to be incurred by the association in connection with the grading, processing, packing, preparation for market, or marketing of any agricultural product handled by such association for any of its members: *Provided*, That the express enumeration in this section of certain classes of paper of cooperative marketing associations as eligible for rediscount shall not be construed as rendering ineligible any other class of paper of such associations which is now eligible for rediscount.

(Dec. 23, 1913, ch. 6, § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1479.)

CODIFICATION

Section is comprised of fourth par. of section 13a, as added Mar. 4, 1923. Pars. 1 to 3 and 5 of section 13a are set out as sections 348, 349, 350 and 352 of this title, respectively.

§ 352. Limitation on amount of obligations of certain maturities which may be discounted and rediscounted

The Board of Governors of the Federal Reserve System may, by regulation, limit to a percentage of the assets of a Federal reserve bank the amount of notes, drafts, acceptances, or bills having a maturity in excess of three months, but not exceeding six months, exclusive of days of grace, which may be discounted by such bank, and the amount of notes, drafts, bills, or acceptances having a maturity in excess of six months, but not exceeding nine months, which may be rediscounted by such bank.

(Dec. 23, 1913, ch. 6, § 13a, as added Mar. 4, 1923, ch. 252, title IV, § 404, 42 Stat. 1479, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of fifth par. of section 13a of act Mar. 4, 1923. Pars. 1 to 4 of section 13a are set out as sections 348, 349 to 351 of this title, respectively.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 351 of this title.

§ 352a. Repealed. Pub. L. 85–699, title VI, § 601, Aug. 21, 1958, 72 Stat. 697

Section, act Dec. 23, 1913, ch. 6, § 13b, as added June 19, 1934, ch. 653, § 1, 48 Stat. 1105, and amended Aug. 23, 1935, ch. 614, title III, § 323, 49 Stat. 714, authorized Federal Reserve Banks to make loans to industrial and commercial businesses and to discount or purchase industrial obligations from financial institutions, and created an industrial advisory committee.

EFFECTIVE DATE OF REPEAL

Section 601 of Pub. L. 85–699 provided in part that the repeal of this section shall be effective one year after Aug. 21, 1958.

SAVINGS CLAUSE

Section 601 of Pub. L. 85–699 provided in part that the repeal of this section shall not affect the power of any Federal Reserve bank to carry out, or protect its interest under, any agreement theretofore made or transaction entered into in carrying on operations under this section.

FUND FOR MANAGEMENT COUNSELING

Subsecs. (a) and (b) of section 602 of Pub. L. 85–699 provided that:

"(a) Within sixty days after the enactment of this Act [August 21, 1958], each Federal Reserve bank shall pay to the United States the aggregate amount which the Secretary of the Treasury has heretofore paid to such bank under the provisions of section 13b of the Federal Reserve Act [this section]; and such payment shall constitute a full discharge of any obligation or liability of the Federal Reserve bank to the United States or to the Secretary of the Treasury arising out of subsection (e) of said section 13b [subsec. (e) of this section] or out of any agreement thereunder.

"(b) The amounts repaid to the United States pursuant to subsection (a) of this section shall be covered into a special fund in the Treasury which shall be available for grants under section 7(d) of the Small Business Act [section 636(d) of Title 15, Commerce and Trade]. Any remaining balance of funds set aside in the Treasury for payments under section 13b of the Federal Reserve Act [this section] shall be covered into the Treasury as miscellaneous receipts."

§ 353. Purchase and sale of cable transfers, acceptances and bills

Any Federal reserve bank may, under rules and regulations prescribed by the Board of Governors of the Federal Reserve System, purchase and sell in the open market, at home or abroad, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers and bankers' acceptances and bills of exchange of the kinds and maturities by this chapter made eligible for rediscount, with or without the indorsement of a member bank.

(Dec. 23, 1913, ch. 6, § 14, 38 Stat. 264; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of opening par. of section 14 of act Dec. 23, 1913. Subds. (a) to (e) of section 14 and subd. (f) of section 14, as added Mar. 4, 1923, ch. 252, title IV, § 405, 42 Stat. 1480, are set out as sections 354 to 359 of this title, respectively.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 354. Transactions involving gold coin, bullion, and certificates

Every Federal reserve bank shall have power to deal in gold coin and bullion at home or abroad, to make loans thereon, exchange Federal reserve notes for gold, gold coin, or gold certificates, and to contract for loans of gold coin or bullion, giving therefor, when necessary, acceptable security, including the hypothecation of United States bonds or other securities

which Federal reserve banks are authorized to hold.

(Dec. 23, 1913, ch. 6, § 14(a), 38 Stat. 264.)

CODIFICATION

Section is comprised of subd. (a) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 315b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 355. Purchase and sale of obligations of National, State, and municipal Governments; open market operations

Every Federal reserve bank shall have power:

(1) To buy and sell, at home or abroad, bonds and notes of the United States, bonds issued under the provisions of subsection (c) of section 1463 of this title and having maturities from date of purchase of not exceeding six months, and bills, notes, revenue bonds, and warrants with a maturity from date of purchase of not exceeding six months, issued in anticipation of the collection of taxes or in anticipation of the receipt of assured revenues by any State, county, district, political subdivision, or municipality in the continental United States, including irrigation, drainage and reclamation districts, such purchases to be made in accordance with rules and regulations prescribed by the Board of Governors of the Federal Reserve System: *Provided,* That, notwithstanding any other provision of this chapter, (1) until November 1, 1976, any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities either in the open market or directly from or to the United States; but all such purchases and sales shall be made in accordance with the provisions of section 263 of this title and the aggregate amount of such obligations acquired directly from the United States which is held at any one time by the twelve Federal Reserve banks shall not exceed $5,000,000,000; and (2) after October 31, 1976, and bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market. The Board of Governors of the Federal Reserve System shall include in their annual report to Congress detailed information with respect to direct purchases and sales from or to the United States under the provisions of this proviso.

(2) To buy and sell in the open market, under the direction and regulations of the Federal Open Market Committee, any obligation which is a direct obligation of, or fully guaranteed as to principal and interest by, any agency of the United States.

(Dec. 23, 1913, ch. 6, § 14(b), 38 Stat. 264; Jan. 31, 1934, ch. 7, § 16(b), 48 Stat. 348; Apr. 27, 1934, ch. 168, § 7(b), 48 Stat. 646; Aug. 23, 1935, ch. 614, §§ 203(a), 206(a), 49 Stat. 704, 706; Mar. 27, 1942, ch. 199, title IV, § 401, 56 Stat. 180; Apr. 28, 1947, ch. 44, 61 Stat. 56; June 30, 1950, ch. 425, 64 Stat. 307; June 23, 1952, ch. 454, 66 Stat. 154; June 29, 1954, ch. 422, 68 Stat. 329; June 25, 1956, ch. 447, 70 Stat. 339; June 30, 1958, Pub. L. 85-476, 72 Stat. 261; July 1, 1960, Pub. L. 86-567, 74 Stat. 295; Oct. 4, 1961, Pub. L. 87-353, § 3(d), 75 Stat. 773; June 28, 1962, Pub. L. 87-506, 76 Stat. 112; June 30, 1964, Pub. L. 88-344, 78 Stat. 235; June 30, 1966, Pub. L. 89-484, 80 Stat. 235; Sept. 21, 1966, Pub. L. 89-597, § 6, 80 Stat. 825; May 4, 1968, Pub. L. 90-300, 82 Stat. 113; July 31, 1970, Pub. L. 91-360, 84 Stat. 668; July 2, 1971, Pub. L. 92-45, 85 Stat. 100; Aug. 14, 1973, Pub. L. 93-93, 87 Stat. 314; Oct. 28, 1974, Pub. L. 93-495, title I, § 109, 88 Stat. 1505; Nov. 12, 1975, Pub. L. 94-125, 89 Stat. 678.)

REFERENCES IN TEXT

Section 1463 of this title, referred to in the text, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648.

This chapter, referred to in text, originally read "this Act" and refers to the Federal Reserve Act. For distribution of the Federal Reserve Act see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of subd. (b) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

AMENDMENTS

1975—Par. (1). Pub. L. 94-125 substituted "November 1, 1976" for "November 1, 1975" and "October 31, 1976" for "October 31, 1975".

1974—Par. (1). Pub. L. 93-495 substituted "November 1, 1975 for "November 1, 1973" and "October 31, 1975" for "October 31, 1973".

1973—Par. (1). Pub. L. 93-93 substituted "November 1, 1973" for "July 1, 1973" and "October 31, 1973" for "June 30, 1973".

1971—Par. (1). Pub. L. 92-45 substituted "July 1, 1973" for "July 1, 1971" and "June 30, 1973" for "June 30, 1971".

1970—Par. (1). Pub. L. 91-360 substituted "July 1, 1971" for "July 1, 1970" and "June 30, 1971" for "June 30, 1970".

1968—Par. (1). Pub. L. 90-300 substituted "July 1, 1970" for "July 1, 1968" and "June 30, 1970" for "June 30, 1968".

1966—Pub. L. 89-597 designated existing provisions as par. (1) and added par. (2).

Pub. L. 89-484 substituted "July 1, 1968" for "July 1, 1966" and "June 30, 1968" for "June 30, 1966".

1964—Pub. L. 88-344 substituted "July 1, 1966" for "July 1, 1964", and "June 30, 1966" for "June 30, 1964".

1962—Pub. L. 87-506 substituted "July 1, 1964" for "July 1, 1962" and "June 30, 1964" for "June 30, 1962."

1961—Pub. L. 87-353 struck out provision authorizing every Federal reserve bank to buy and sell, at home or abroad, bonds of the Federal Farm Mortgage Corporation having maturities from date of purchase of not exceeding six months.

1960—Pub. L. 86-567 substituted "July 1, 1962" for "July 1, 1960" and "June 30, 1962" for "June 30, 1960".

1958—Pub. L. 85-476 substituted "July 1, 1960" for "July 1, 1958" and "June 30, 1960" for "June 30, 1958".

1956—Act June 25, 1956, substituted "July 1, 1958" for "July 1, 1956" and "June 30, 1958" for "June 30, 1958".

1954—Act June 29, 1954, substituted "July 1, 1956" for "July 1, 1954" and "June 30, 1956" for "June 30, 1954".

1952—Act June 23, 1952, substituted "July 1, 1954" for "July 1, 1952" and "June 30, 1954" for "June 30, 1952".

1950—Act June 30, 1950, substituted "July 1, 1952" for "July 1, 1950" and "June 30, 1952" for "June 30, 1950".

1947—Act Apr. 28, 1947, substituted proviso which allows the Federal Reserve banks to buy and sell either in the open market or directly from or to the United States any bonds, notes, or other obligations which are direct obligations of the United States or are fully guaranteed by the United States but limits the aggregate amount to be held at any one time to $5,000,000,000, and after June 30, 1950 allows such obligation to be purchased, but only in the open market for former proviso.

1942—Act Mar. 27, 1942, amended proviso generally.

1935—Act Aug. 23, 1935, § 206(a), added proviso.

1934—Act Apr. 27, 1934, authorized purchase and sale of bonds issued under subsec. (c) of [former] section 1463 of this title.

Act Jan. 31, 1934, authorized purchase and sale of bonds of Federal Farm Mortgage Corporation.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXPIRATION OF 1942 AMENDMENT

Amendment of the proviso of this section by act Mar. 27, 1942, remained in force only until the date fixed by section 645 of Appendix to Title 50, War and National Defense, after which provisions in force before the amendment again became effective. Before the 1942 amendment, the proviso of this section read: *"Provided,* That any bonds, notes, or other obligations which are direct obligations of the United States or which are fully guaranteed by the United States as to principal and interest may be bought and sold without regard to maturities but only in the open market."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 347, 412, 2158 of this title; title 20 section 1087-2.

§ 356. Purchase of commercial paper from member banks and sale of same

Every Federal reserve bank shall have power to purchase from member banks and to sell, with or without its indorsement, bills of exchange arising out of commercial transactions, as hereinbefore defined.

(Dec. 23, 1913, ch. 6, § 14(c), 38 Stat. 264.)

CODIFICATION

Section is comprised of subd. (c) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 357. Establishment of rates of discount

Every Federal reserve bank shall have power to establish from time to time, subject to review and determination of the Board of Governors of the Federal Reserve System, rates of discount to be charged by the Federal reserve bank for each class of paper, which shall be fixed with a view of accommodating commerce and business, but each such bank shall establish such rates every fourteen days, or oftener if deemed necessary by the Board.

(Dec. 23, 1913, ch. 6, § 14(d), 38 Stat. 264; Apr. 13, 1920, ch. 128, 41 Stat. 550; Mar. 4, 1923, ch. 252, title IV, § 407, 42 Stat. 1480; Aug. 23, 1935, ch. 614, §§ 203(a), 206(b), 49 Stat. 704, 706.)

CODIFICATION

Section is comprised of subd. (d) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, § 206(b), added the words at the end of the section beginning "but each such."

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 343, 412 of this title.

§ 358. Establishment of accounts for purposes of open-market operations; correspondents and agencies

Every Federal reserve bank shall have power to establish accounts with other Federal reserve banks for exchange purposes and, with the consent or upon the order and direction of the Board of Governors of the Federal Reserve System and under regulations to be prescribed by said Board, to open and maintain accounts in foreign countries, appoint correspondents, and establish agencies in such countries wheresoever it may be deemed best for the purpose of purchasing, selling, and collecting bills of exchange, and to buy and sell, with or without its indorsement, through such correspondents or agencies, bills of exchange (or acceptances) arising out of actual commercial transactions which have not more than ninety days to run, exclusive of days of grace, and which bear the signature of two or more responsible parties, and, with the consent of the Board of Governors of the Federal Reserve System, to open and maintain banking accounts for such foreign correspondents or agencies, or for foreign banks or bankers, or for foreign states as defined in section 632 of this title. Whenever any such account has been opened or agency or correspondent has been appointed by a Federal reserve bank, with the consent of or under the order and direction of the Board of Governors of the Federal Reserve System, any other Federal reserve bank may, with the consent and approval of the Board of Governors of the Federal Reserve System, be permitted to carry on or conduct, through the Federal reserve bank opening such account or appointing such agency or correspondent, any transactions authorized by this section under rules and regulations to be prescribed by the board.

(Dec. 23, 1913, ch. 6, § 14(e), 38 Stat. 264; Sept. 7, 1916, ch. 461, 39 Stat. 754; June 21, 1917, ch. 32, § 6, 40 Stat. 235; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; Apr. 7, 1941, ch. 43, § 1, 55 Stat. 131.)

CODIFICATION

Section is comprised of subd. (e) of section 14 of act Dec. 23, 1913. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

AMENDMENTS

1941—Act Apr. 7, 1941, inserted in first sentence "and which bear the signature of two or more responsible parties" and "or for foreign states as defined in section 632 of this title".

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 359. Purchase and sale of acceptances of intermediate credit banks and agricultural credit corporations

Every Federal reserve bank shall have power to purchase and sell in the open market, either from or to domestic banks, firms, corporations, or individuals, acceptances of Federal intermediate credit banks and of national agricultural credit corporations, whenever the Board of Governors of the Federal Reserve System shall declare that the public interest so requires.

(Dec. 23, 1913, ch. 6, § 14(f), as added Mar. 4, 1923, ch. 252, title IV, § 405, 42 Stat. 1480, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of subd. (f) of section 14 of act Dec. 23, 1913, as added Mar. 4, 1923. For classification to this title of remainder of section 14, see Codification note under section 353 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

NATIONAL AGRICULTURAL CREDIT CORPORATION

Title II of the Agricultural Credits Act, act Mar. 4, 1923, title II, §§ 201 to 217, 42 Stat. 1461, which authorized the creation of national agricultural credit corporations, was repealed by Pub. L. 86-230, Sept. 8, 1959, § 24, 73 Stat. 466. Prior to such repeal, act June 16, 1933, § 77, 48 Stat. 292, had prohibited the creation, after June 16, 1933, of national agricultural credit corporations authorized to be formed under the Agricultural Credits Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 263, 412 of this title.

§ 360. Receiving checks and drafts on deposit at par; charges for collections, exchange, and clearances

Every Federal reserve bank shall receive on deposit at par from member banks or from Federal reserve banks checks and drafts drawn upon any of its depositors, and when remitted by a Federal reserve bank, checks and drafts drawn by any depositor in any other Federal reserve bank or member bank upon funds to the credit of said depositor in said reserve bank or member bank. Nothing herein contained shall be construed as prohibiting a member bank from charging its actual expense incurred in collecting and remitting funds, or for exchange sold to its patrons. The Board of Governors of the Federal Reserve System shall, by rule, fix the charges to be collected by the member banks from its patrons whose checks are cleared through the Federal reserve bank and the charge which may be imposed for the service of the clearing or collection rendered by the Federal reserve bank.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 265; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of thirteenth par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 348 of this title.

§§ 361 to 364. Omitted

CODIFICATION

Section 361, which was a part of R.S. § 5202; act Sept. 7, 1916, ch. 461, 39 Stat. 753, was omitted in the amendment of R.S. § 5202 by act Apr. 5, 1918, ch. 45, § 20, 40 Stat. 512, and therefore this section has been omitted from the code. R.S. § 5202, as amended, is set out as section 82 of this title.

Section 362, act June 1, 1955, ch. 113, title I, § 101, 69 Stat. 72, which related to reimbursement of Federal Reserve banks and branches for necessary expenses incident to deposit of withheld taxes in Government depositories, was from the Treasury-Post Office Appropriation Act, 1956, was not repeated in subsequent appropriation acts, and is now covered by section 1023 of Title 31, Money and Finance.

Section 363, act June 1, 1955, ch. 113, title I, § 101, 69 Stat. 72, which related to reimbursement of Federal Reserve banks and branches for necessary expenses incident to verification and destruction of unfit United States paper currency, was from the Treasury-Post Office Appropriation Act, 1956, was not repeated in subsequent appropriation acts, and is now covered by section 1023 of Title 31, Money and Finance.

Section 364, act Sept. 26, 1970, Pub. L. 91-422, title II, § 201, 84 Stat. 875, which related to reimbursement of Federal Reserve banks and branches for expenditures as fiscal agents of the United States on account of Post Office Department operations, was from the Treasury, Post Office, and Executive Office Appropriation Act, 1971, and was not repeated in subsequent appropriation acts.

SUBCHAPTER X—POWERS AND DUTIES OF MEMBER BANKS

§ 371. Real estate loans

(a) Authorization; loans secured by liens upon unimproved real estate, etc.; form of obligations; limitations on amount; renewal and extension, and applicability to loans guaranteed or insured under other provisions; determination of outstanding amounts

(1) Any national banking association may make real estate loans, secured by liens upon unimproved real estate, upon improved real estate, including improved farmland and improved business and residential properties, and

upon real estate to be improved by a building or buildings to be constructed or in the process of construction, in an amount which when added to the amount unpaid upon prior mortgages, liens, encumbrances, if any, upon such real estate does not exceed the respective proportions of appraised value as provided in this section. A loan secured by real estate within the meaning of this section shall be in the form of an obligation or obligations secured by a mortgage, trust deed, or other instrument, which shall constitute a lien on real estate in fee or, under such rules and regulations as may be prescribed by the Comptroller of the Currency, on a leasehold under a lease which does not expire for at least ten years beyond the maturity date of the loan, and any national banking association may purchase or sell any obligations so secured in whole or in part. The amount of any such loan hereafter made shall not exceed 66⅔ per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by offsite improvements such as streets, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. If any such loan exceeds 75 per centum of the appraised value of the real estate or if the real estate is improved with a one- to four-family dwelling, installment payments shall be required which are sufficient to amortize the entire principal of the loan within a period of not more than thirty years.

(2) The limitations and restrictions set forth in paragraph (1) shall not prevent the renewal or extension of loans heretofore made and shall not apply to real estate loans (A) which are insured under the provisions of the National Housing Act [12 U.S.C. 1701 et seq.], (B) which are insured by the Secretary of Agriculture pursuant to title I of the Bankhead-Jones Farm Tenant Act, or the Act of August 28, 1937, as amended, or title V of the Housing Act of 1949, as amended, [42 U.S.C. 1471 et seq.], or (C) which are guaranteed by the Secretary of Housing and Urban Development, for the payment of the obligations of which the full faith and credit of the United States is pledged, and such limitations and restrictions shall not apply to real estate loans which are fully guaranteed or insured by a State, or any agency or instrumentality thereof, or by a State authority for the payment of the obligations of which the faith and credit of the State is pledged, if under the terms of the guaranty or insurance agreement the association will be assured of repayment in accordance with the terms of the loan, or to any loan at least 20 per centum of which is guaranteed under chapter 37 of title 38, or to obligations guaranteed under section 1440 of title 42.

(3) Loans which are guaranteed or insured as described in paragraph (2) shall not be taken into account in determining the amount of real estate loans which a national banking association may make in relation to its capital and surplus or its time and savings deposits or in determining, the amount of real estate loans secured by other than first liens. Where the collateral for any loan consists partly of real estate security and partly of other security, including a guaranty or endorsement by or an obligation or commitment of a person other than the borrower, only the amount by which the loan exceeds the value as collateral of such other security shall be considered a loan upon the security of real estate, and in no event shall a loan be considered as a real estate loan where there is a valid and binding agreement which is entered into by a financially responsible lender or other party either directly with the association or which is for the benefit of or has been assigned to the association and pursuant to which agreement the lender or other party is required to advance to the association within sixty months from the date of the making of such loan the full amount of the loan to be made by the association upon the security of real estate. Except as otherwise provided, no such association shall make real estate loans in an aggregate sum in excess of the amount of the capital stock of such association paid in and unimpaired plus the amount of its unimpaired surplus fund, or in excess of the amount of its time and savings deposits, whichever is greater: *Provided*, That the amount unpaid upon real estate loans secured by other than first liens, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, shall not exceed in an aggregate sum 20 per centum of the amount of the capital stock of such association paid in and unimpaired plus 20 per centum of the amount of its unimpaired surplus fund.

(b) Loans secured by liens upon forest tracts; form of obligations; limitations on amount; term; inclusion within permissible aggregate of all loans

Any national banking association may make real estate loans secured by liens upon forest tracts which are properly managed in all respects. Such loans shall be in the form of an obligation or obligations secured by mortgage, trust deed, or other such instrument; and any national banking association may purchase or sell any obligations so secured in whole or in part. The amount of any such loan, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, if any, shall not exceed 66⅔ per centum of the appraised fair market value of the growing timber, lands, and improvements thereon offered as security and the loan shall be made upon such terms and conditions as to assure that at no time shall the loan balance, when added to the amount unpaid upon prior mortgages, liens, and encumbrances, if any, exceed 66⅔ per centum of the original appraised total value of the property then remaining. No such loan shall be made for a longer term than three years; except that any such loan may be made for a term not longer than fifteen years if the loan is secured by an amortized mortgage, deed of trust, or other such instrument under the terms of which the installment payments are sufficient to amortize the principal of the loan within a period of not more than fifteen years and at a rate at least 6⅔ per centum per annum. All such loans secured by liens upon forest tracts shall be included in the permissible aggregate of all real estate loans and, when secured by other than

first liens, in the permissible aggregate of all real estate loans secured by other than first liens, prescribed in subsection (a) of this section, but no national banking association shall make forest tract loans in an aggregate sum in excess of 50 per centum of its capital stock paid in and unimpaired plus 50 per centum of its unimpaired surplus fund.

(c) Loans financing construction of building or buildings and construction of residential or farm buildings construed as real estate or commercial loans at option of bank

Loans made to finance the construction of a building or buildings and having maturities of not to exceed sixty months where there is a valid and binding agreement entered into by a financially responsible lender or other party to advance the full amount of the bank's loan upon completion of the building or buildings, and loans made to finance the construction of residential or farm buildings and having maturities of not to exceed sixty months, may be considered as real estate loans if the loans qualify under this section, or such loans may be classed as commercial loans whether or not secured by a mortgage or similar lien on the real estate upon which the building or buildings are being constructed, at the option of each national banking association that may have an interest in such loan: *Provided,* That no national banking association shall invest in, or be liable on, any such loans classed as commercial loans under this subsection in an aggregate amount in excess of 100 per centum of its actually paid-in and unimpaired capital plus 100 per centum of its unimpaired surplus fund.

(d) Eligibility for discount as commercial paper of notes representing loans financing construction of residential or farm buildings; prerequisites

Notes representing loans made under this section to finance the construction of residential or farm buildings and having maturities of not to exceed nine months shall be eligible for discount as commercial paper within the terms of the second paragraph of section 343 of this title if accompanied by a valid and binding agreement to advance the full amount of the loan upon the completion of the building entered into by an individual, partnership, association, or corporation acceptable to the discounting bank.

(e) Commercial loans

Loans made to any borrower (i) where the association looks for repayment by relying primarily on the borrower's general credit standing and forecast of income, with or without other security, or (ii) secured by an assignment of rents under a lease, and where, in either case described in clause (i) or (ii) above, the association wishes to take a mortgage, deed of trust, or other instrument upon real estate (whether or not constituting a first lien) as a precaution against contingencies, and loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred or guaranteed basis under the Small Business Act [15 U.S.C. 631 et seq.], shall not be considered as real estate loans within the meaning of this section but shall be classed as commercial loans.

(f) Waiver of security limitations and restrictions

Any national banking association may make loans upon the security of real estate that do not comply with the limitations and restrictions in this section, if the total unpaid amount loaned, exclusive of loans which subsequently comply with such limitations and restrictions, does not exceed 10 per centum of the amount that a national banking association may invest in real estate loans. The total unpaid amount so loaned shall be included in the aggregate sum that such association may invest in real estate loans.

(g) Rules and regulations

Loans made pursuant to this section shall be subject to such conditions and limitations as the Comptroller of the Currency may prescribe by rule or regulation.

(Dec. 23, 1913, ch. 6, § 24, 38 Stat. 273; Sept. 7, 1916, ch. 461, 39 Stat. 754; Feb. 25, 1927, ch. 191, § 16, 44 Stat. 1232; June 27, 1934, ch. 847, § 505, 48 Stat. 1263; Aug. 23, 1935, ch. 614, §§ 208, 328, 49 Stat. 706, 717; Mar. 28, 1941, ch. 31, § 8, 55 Stat. 62; July 22, 1937, ch. 517, § 15(a), as added Aug. 14, 1946, ch. 964, § 5, 60 Stat. 1075; May 25, 1948, ch. 334, § 9, 62 Stat. 265; Oct. 25, 1949, ch. 729, § 6, 63 Stat. 906; Apr. 20, 1950, ch. 94, title V, § 502, 64 Stat. 80; Sept. 1, 1951, ch. 378, title II, § 207, title V, § 503, 65 Stat. 303, 312; Aug. 15, 1953, ch. 510, 67 Stat. 613; July 22, 1954, ch. 561, 68 Stat. 525; Aug. 28, 1937, ch. 870, § 10(f), as added Aug. 17, 1954, ch. 751, § 1(4), 68 Stat. 735; Aug. 11, 1955, ch. 781, §§ 1, 2, 69 Stat. 633, 634; July 18, 1958, Pub. L. 85-536, § 3, 72 Stat. 396; Sept. 9, 1959, Pub. L. 86-251, § 4, 73 Stat. 489; June 30, 1961, Pub. L. 87-70, title VIII, § 804(c), title IX, § 902, 75 Stat. 188, 191; Sept. 28, 1962, Pub. L. 87-717, §§ 1, 2, 76 Stat. 662, 663; June 30, 1964, Pub. L. 88-341, 78 Stat. 233; Sept. 2, 1964, Pub. L. 88-560, title X, § 1004, 78 Stat. 807; Aug. 10, 1965, Pub. L. 89-117, title II, § 201(b)(2), title XI, § 1111, 79 Stat. 465, 509; Nov. 3, 1966, Pub. L. 89-754, title V, § 504(a)(2), 80 Stat. 1277; May 25, 1967, Pub. L. 90-19, § 26, 81 Stat. 28; Aug. 1, 1968, Pub. L. 90-448, title IV, § 416(b), title XVII, § 1718, 82 Stat. 518, 609; July 24, 1970, Pub. L. 91-351, title VII, § 704, 84 Stat. 462; Dec. 31, 1970, Pub. L. 91-609, title VII, § 727(c), 84 Stat. 1803; Aug. 22, 1974, Pub. L. 93-383, title VII, § 711, title VIII, § 802(i)(1), 88 Stat. 716, 725.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a)(2), which is classified generally to chapter 13 (§ 1701 et seq.) of this title, is act June 27, 1934, ch. 847, 48 Stat. 1246. For complete classification of this Act to the Code, see References in Text note set out under section 1701 of this title and Tables volume.

Title I of the Bankhead-Jones Farm Tenant Act, referred to in subsec. (a)(2), means title I of act July 22, 1937, ch. 517, 50 Stat. 522, as amended, which related to tenant purchase loans and mortgage insurance, was classified to former sections 1001 to 1005d, and 1006c to 1006e of Title 7, Agriculture, was repealed by Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318, and is now covered by chapter 50 (§ 1921 et seq.) of title 7.

Act Aug. 28, 1937, as amended, referred to in subsec. (a)(2), means act Aug. 28, 1937, ch. 870, Stat. 869, as amended, which related to facilities for water storage and utilization, was classified to former sections 590r to 590x-4 of Title 16, Conservation, was repealed by Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat.

318, and is now covered by chapter 50 (§ 1921 et seq.) of title 7.

Title V of the Housing Act of 1949, as amended, referred to in subsec. (a)(2), is classified to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare.

The Small Business Act, referred to in subsec. (e), is Pub. L. 85-536, July 18, 1958, 72 Stat. 384, which is classified to chapter 14A (§ 631 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 631 of Title 15 and Tables volume.

CODIFICATION

Part of section 15(a) of act July 22, 1937, as added Aug. 14, 1946, amended first par. of this section. See 1946 Amendment Note. Remainder of section 15 (a) of act July 22, 1937, as added by Pub. L. 85-748, § 1(c), Aug. 25, 1958, 72 Stat. 841, amended section 84 of this title by adding par. (12).

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383, §§ 711, 802(i)(1), designated unlettered first par. as subsec. (a) and, as so designated, substantially revised the provisions relating to real estate loans by associations and added reference to obligations guaranteed by section 1440 of title 42.

Subsecs. (b) to (f). Pub. L. 93-383, § 711, designated unlettered second, third, fourth, and fifth pars. as subsecs. (b) to (f) and, as so designated, substantially revised the provisions relating to real estate loans secured by liens upon forest tracts, loans made to finance the construction of buildings, notes representing loans, repayment of loans, and waiver of restrictions and limitations.

Subsec. (g). Pub. L. 93-383, § 711, added subsec. (g) authorizing the Comptroller of the Currency to prescribe rules and regulations relating to loans.

1970—Pub. L. 91-609 authorized national banks to invest in obligations guaranteed under part B of the Urban Growth and New Community Development Act of 1970.

Pub. L. 91-351 substituted in cl. (3) of third sentence of first par. "90 per centum" for "80 per centum" and "thirty years" for "twenty-five years", and in first sentence of third par. "sixty months" for "thirty-six months" wherever appearing therein.

1968—Pub. L. 90-448, § 416(b), substituted "any national banking association may make loans or purchase obligations for land development which are secured by mortgages insured under title X of the National Housing Act or guaranteed under title IV of the Housing and Urban Development Act of 1968" for "any national banking association may make loans for land development which are secured by mortgages insured under title X of the National Housing Act" in the first paragraph.

Pub. L. 90-448, § 1718, substituted "in whole or in part and at any time or times prior to the maturity of such obligation" for "when the entire amount of such obligation is sold to the association" wherever appearing in the first and second pars., "thirty-six months" for "twenty-four months" in two instances in the second par., and "Loans made to any borrower (i) where the association looks for repayment by relying primarily on the borrower's general credit standing and forecast of income, with or without other security, or (ii) where the association relies on other security as collateral for the loans (including but not limited to a guaranty of a third party), and where, in either case described in clause (i) or (ii) above, the association wishes to take a mortgage, deed of trust, or other instrument upon real estate (whether or not constituting a first lien) as a precaution against contingencies, such loans shall not be considered as real estate loans within the meaning of this section but shall be classed as ordinary non-real-estate loans" for "Loans made to manufacturing and industrial businesses where the association looks for repayment out of the operations of the borrower's business, relying primarily on the borrower's general credit standing and forecase of operations, with or without other security, but wishes to take a mortgage on the borrower's real estate as a precaution against contingencies, shall not be considered as real estate loans within the meaning of this section but shall be classed as ordinary commercial loans" in the last par.

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator" in first sentence of fourth par.

1966—Pub. L. 89-754 permitted national banking associations to make loans for group practice facilities which are secured by mortgages insured under subchapter IX-B of chapter 13 of this title.

1965—Pub. L. 89-117 permitted national banking associations to make loans for land development which are secured by mortgages insured under title X of the National Housing Act and increased from 18 months to 24 months the maximum maturity of industrial, commercial, and residential construction loans.

1964—Pub. L. 88-560 substituted in clause (3) of third sentence of first par. "80" for "75" per centum and "twenty-five" for "20" years.

Pub. L. 88-341 substituted "60 per centum of the appraised fair market value of the growing timber, lands, and improvements thereon" for "40 per centum of the appraised value of the economically marketable timber", "60 per centum of the original appraised total value of the property" for "40 per centum of the original appraised value of the economically marketable timber", increased the permissible loan term from 2 to 3 years in the case of unamortized loans, from 10 to 15 years in the case of amortized loans, and decreased the annual rate from 10 to 6⅝ per centum.

1962—Pub. L. 87-717 increased the aggregate real estate loan limitation from 60 to 70 per centum of a bank's time and savings deposits, and the limitation on maturities for loans made to finance the construction of residential or farm buildings, from nine months or less to eighteen months or less.

1961—Pub. L. 87-70 inserted "title V of the Housing Act of 1949, as amended" following sections 590r to 590x-3 of Title 16" in the first par., and in the next to last paragraph inserted provisions permitting home improvement loans which are insured under section 1709(k) or 1715k(h) of this title to be made without regard to the first lien requirements of this section.

1959—Pub. L. 86-251, § 4(a), substituted in second sentence of first par., "under a lease which does not expire for at least 10 years beyond the maturity date of the loan" for "(1) under a lease for not less than ninety-nine years which is renewable or (2) under a lease having a period of not less than fifty years to run from the date the loan is made or acquired by the national banking association".

Pub. L. 86-251, § 4(b)(1), (2), added clause (3) in third sentence of first par., redesignated former clause (3) as clause (4), and prohibited the application of the described limitations and restrictions to State-guaranteed loans.

Pub. L. 86-251, § 4(c), inserted provisions in third par. classifying certain loans for construction of industrial or commercial buildings as ordinary commercial loans and authorized investments in or liability on loans in an amount that includes 100 per centum of its unimpaired surplus fund.

Pub. L. 86-251, § 4(d) added par. classifying certain loans to manufacturing and industrial businesses as ordinary commercial loans.

1958—Pub. L. 85-536 amended fourth par. of section to eliminate "or the Small Business Administration" which followed "Housing and Home Finance Administrator" and "or the Small Business Act of 1953" which followed "or 1701g-1 of this title", and to insert provisions exempting loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred basis from the restrictions or limitations of this section imposed upon loans secured by real estate.

1955—Act Aug. 11, 1955, § 1, amended first par. generally to increase the percentage of the loan to the ap-

praised value of the property from 60 to 66⅔ percent in the case of 40 percent amortized residential mortgage loans not exceeding a 10-year maturity, and to permit national banks to make a residential real-estate loan in an amount not to exceed 66⅔ percent of the appraised value of the property and for a term not longer than 20 years.

Act Aug. 11, 1955, § 2, amended third par. by increasing from 6 to 9 months construction loans for the purpose of financing residential or farm buildings.

1954—Act Aug. 17, 1954, amended third sentence of first par. by inserting ", or sections 590r to 590x–3 of Title 16" following "sections 1001–1005d of Title 7".

Act July 22, 1954, amended fourth par. by inserting references to the Small Business Administration and to the Small Business Act of 1953.

1953—Act Aug. 15, 1953, amended section by inserting second par. to permit the making of real estate loans secured by first liens upon forest tracts which are properly managed. Former pars. 2 and 3 became pars. 3 and 4.

1951—Act Sept. 1, 1951, § 207, amended third sentence of first par. by inserting a reference to subchapter X of chapter 13 of this title.

Act Sept. 1, 1951, § 503, amended third par. by inserting a reference to the Housing and Home Finance Administrator, and references to sections 1701g and 1701g–1 of this title.

1950—Act Apr. 20, 1950, amended third sentence of first par. by inserting "1748–1748g, or 1706c of this title" for "or 1748–1748g of this title", in the third sentence.

1949—Joint Res. Oct. 25, 1949, amended first par. by striking out second sentence and inserting new second sentence, and by inserting "sections 1707–1715, 1736–1742, and 1748–1748g of this title" for "sections 1707–1715 and 1736–1742 of this title".

1948—Act May 25, 1948, amended third par. by striking out references to certain lending authority which the Corporation was granted under section 604(a) of Title 15, as amended in 1947, and which it does not now have.

1946—Act Aug. 14, 1946, amended first par. by inserting "or which are insured by the Secretary of Agriculture pursuant to sections 1001–1005d of Title 7".

1941—Act Mar. 28, 1941, amended third sentence of first par. by inserting reference to sections 1736 to 1742 of this title.

1935—Act Aug. 23, 1935, amended first par. and added third par.

1934—Act June 27, 1934, amended first par. and added second par.

1927—Act Feb. 25, 1927, amended first par.

Repeals

Repealing provisions of Consolidated Farmers Home Administration Act of 1961 as not having the effect of repealing the amendments to this section enacted by act July 22, 1937, § 15(a), as added Aug. 14, 1946, and Aug. 28, 1937, § 10(f), as added Aug. 17, 1954, see section 341(a) of Pub. L. 87–128, title III, Aug. 8, 1961, 75 Stat. 318, set out as a note under section 1921 of Title 7, Agriculture.

Exception as to Transfer of Functions

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

Separability of Provisions

Separability of act Mar. 28, 1941, see note under section 1736 of this title.

Cross References

National Housing Act, application to, see section 1733 of this title.

Section Referred to in Other Sections

This section is referred to in title 42 section 1591a.

§ 371a. Payment of interest on demand deposits

No member bank shall, directly or indirectly, by any device whatsoever, pay any interest on any deposit which is payable on demand: *Provided,* That nothing herein contained shall be construed as prohibiting the payment of interest in accordance with the terms of any certificate of deposit or other contract entered into in good faith which is in force on the date on which the bank becomes subject to the provisions of this section; but no such certificate of deposit or other contract shall be renewed or extended unless it shall be modified to conform to this section, and every member bank shall take such action as may be necessary to conform to this section as soon as possible consistently with its contractual obligations: *Provided further,* That this section shall not apply to any deposit of such bank which is payable only at an office thereof located outside of the States of the United States and the District of Columbia: *Provided further,* That until the expiration of two years after August 23, 1935, this section shall not apply (1) to any deposit made by a savings bank as defined in section 12B of this Act, as amended, or by a mutual savings bank, or (2) to any deposit of public funds made by or on behalf of any State, county, school district, or other subdivision or municipality, or to any deposit of trust funds if the payment of interest with respect to such deposit of public funds or of trust funds is required by State law. So much of existing law as requires the payment of interest with respect to any funds deposited by the United States, by any Territory, District, or possession thereof, or by any public instrumentality, agency, or officer of the foregoing, as is inconsistent with the provisions of this section is repealed.

(Dec. 23, 1913, ch. 6, § 19(i), formerly § 19 par. (12), as added June 16, 1933, ch. 89, § 11(b), 48 Stat. 181, and amended Aug. 23, 1935, ch. 614, § 324(c), 49 Stat. 714; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; renumbered Sept. 21, 1966, Pub. L. 89–597, § 2(b), 80 Stat. 824.)

References in Text

Section 12B of this Act [Federal Reserve Act], as amended, referred to in text, formerly classified to section 264 of this title, has been withdrawn from the Federal Reserve Act and incorporated in the Federal Deposit Insurance Act which is classified to chapter 16 (§ 1811 et seq.) of this title.

This section, referred to in the last sentence, means section 19 of act Dec. 23, 1913, as amended, which is classified to sections 142, 371a, 371b, 371b–1, 374, 374a, 461, and 463 to 466 of this title.

Codification

Words "(including the Philippine Islands)" following "or any possession thereof" were omitted from text on authority of Proc. No. 2695, which granted independence to the Philippine Islands pursuant to section 1394 of Title 22. Proc. No. 2695 is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1935—Act Aug. 23, 1935, affected the three provisos and added last sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 371b. Rate of interest on time deposits; payment of time deposits before maturity; waiver of notice requirements for withdrawal of savings deposits

The Board may from time to time, after consulting with the Board of Directors of the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board, prescribe rules governing the payment and advertisement of interest on deposits, including limitations on the rates of interest which may be paid by member banks on time and savings deposits. The Board may prescribe different rate limitations for different classes of deposits, for deposits of different amounts or with different maturities or subject to different conditions regarding withdrawal or repayment, according to the nature or location of member banks or their depositors, or according to such other reasonable bases as the Board may deem desirable in the public interest. No member bank shall pay any time deposit before its maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the said Board, or waive any requirement of notice before payment of any savings deposit except as to all savings deposits having the same requriement: *Provided*, That the provisions of this section shall not apply to any deposit which is payable only at an office of a member bank located outside of the States of the United States and the District of Columbia. During the period commencing on October 15, 1962, and ending on October 15, 1968, the provisions of this paragraph shall not apply to the rate of interest which may be paid by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

(Dec. 23, 1913, ch. 6, § 19(j), formerly § 19 (par. 13), as added June 16, 1933, ch. 89, § 11(b), 48 Stat. 182, and amended Aug. 23, 1935, ch. 614, § 324(c), 49 Stat. 714; Oct. 15, 1962, Pub. L. 87-827, § 1, 76 Stat. 953; July 21, 1965, Pub. L. 89-79, § 1, 79 Stat. 244; renumbered and amended Sept. 21, 1966, Pub. L. 89-597, § 2(b), (c), 80 Stat. 824; Sept. 21, 1968, Pub. L. 90-505, § 2(a), 82 Stat. 856.)

AMENDMENTS

1968—Pub. L. 90-505 gave the Board the power to prescribe rules governing the payment and advertising of interest on deposits.

1966—Pub. L. 89-597, § 2(c), made the authority of the Board to prescribe maximum permissible rates of interest that may be paid by member banks on time and savings deposits discretionary rather than mandatory, required prior consultations with the FDIC Board and the FHLB Board, authorized different rate limitations for different classes of deposits, for deposits of different amounts, or according to such other reasonable bases as the Board may deem desirable in the public interest, and eliminated provision for rate limitation according to the varying discount rates of member banks in the several Federal Reserve districts.

1965—Pub. L. 89-79 extended until Oct. 15, 1968, the period during which the provisions of this paragraph do not apply to the rate of interest payable by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

1962—Pub. L. 87-827 inserted sentence making this paragraph inapplicable, during the period commencing on October 15, 1962 and ending upon the expiration of three years after such date, to the rate of interest which may be paid by member banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

1935—Act Aug. 23, 1935, among other changes, added to second sentence "except upon such conditions and in accordance with such rules and regulations as may be prescribed by the said Board" and the proviso.

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Amendment of provisions of this section preceding the third sentence thereof by Pub. L. 89-597, effective only through March 1, 1977, and, effective March 1, 1977, such provisions further amended to read as they would without the amendment made by section 2(c) of Pub. L. 89-597, see section 7(1) of Pub. L. 89-597, as amended, set out as a note under section 461 of this title.

TIME DEPOSITS; INTEREST RATES, LIMITATION

Pub. L. 93-123, Oct. 15, 1973, 87 Stat. 448, provided that: "In carrying out their respective authorities under the Act of September 21, 1966 (Pub. L. 89-597) [enacting section 1425b of this title, amending sections 355, 371b, 461, and 1828 of this title and section 771 of Title 31, repealing section 462a-1 of this title, and enacting provisions set out as notes under section 461 of this title] and under other provisions of law, the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board shall take action to limit the rates of interest or dividends which may be paid on time deposits of less than $100,000 by institutions regulated by them."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 371b-1. State usury ceilings inapplicable to certain obligation issued by member banks and affiliates

No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.

(Dec. 23, 1913, ch. 6, § 19(k), as added Oct. 29, 1974, Pub. L. 93-501, title III, § 301, 88 Stat. 1560.)

EFFECTIVE DATE

Section 304 of Pub. L. 93-501 provided that: "The amendments made by this title [which enacted this section and amended sections 1425b and 1828 of this title] shall apply to any deposit made or obligation issued in any State after the date of enactment of this title [Oct. 29, 1974], but prior to the earlier of (1) July 1, 1977 or (2) the date (after such date of enactment) on which the State enacts a provision of law which limits the amount of interest which may be charged in connection with deposits or obligations referred to in the amendments made by this title."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 371c. Loans to or purchase of securities of affiliates; collateral acceptable; extension of credit; "affiliate" defined; exemptions

No member bank shall (1) make any loan or any extension of credit to, or purchase securities under repurchase agreement from, any of its affiliates, or (2) invest any of its funds in the capital stock, bonds, debentures, or other such obligations of any such affiliate, or (3) accept the capital stock, bonds, debentures, or other such obligations of any such affiliate as collateral security for advances made to any person, partnership, association, or corporation, if, in the case of any such affiliate, the aggregate amount of such loans, extensions of credit, repurchase agreements, investments, and advances against such collateral security will exceed 10 per centum of the capital stock and surplus of such member bank, or if, in the case of all such affiliates, the aggregate amount of such loans, extensions of credits, repurchase agreements, investments, and advances against such collateral security will exceed 20 per centum of the capital stock and surplus of such member bank.

Within the foregoing limitations, each loan or extension of credit of any kind or character to an affiliate shall be secured by collateral in the form of stocks, bonds, debentures, or other such obligations having a market value at the time of making the loan or extension of credit of at least 20 per centum more than the amount of the loan or extension of credit, or of at least 10 per centum more than the amount of the loan or extension of credit if it is secured by obligations of any State or of any political subdivision or agency thereof: *Provided,* That the provisions of this paragraph shall not apply to loans or extensions of credit secured by obligations of the United States Government, the Federal intermediate credit banks, the Federal land banks, or the Federal Home Loan Banks, or by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal Reserve Banks. A loan or extension of credit to a director, officer, clerk, or other employee, or any representative of any such affiliate, shall be deemed a loan to the affiliate to the extent that the proceeds of such loan are used for the benefit of or transferred to the affiliate.

The provisions of this section shall not apply to any affiliate (1) engaged solely in holding the bank premises of the member bank with which it is affiliated; (2) engaged solely in conducting a safe-deposit business or the business of an agricultural credit corporation or livestock loan company; (3) in the capital stock of which a national banking association is authorized to invest pursuant to section 25 of this Act, as amended [12 U.S.C. 601 et seq.], or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (4) organized under section 25(a) of this Act, as amended [12 U.S.C. 611 et seq.], or a subsidiary of such affiliate, all the stock of which (except qualifying shares of directors in an amount not to exceed 10 per centum) is owned by such affiliate; (5) engaged solely in holding obligations of the United States or obligations fully guaranteed by the United States as to principal and interest, the Federal intermediate credit banks, the Federal land banks, the Federal Home Loan Banks; (6) where the affiliate relationship has arisen out of a bona fide debt contracted prior to the date of the creation of such relationship; or (7) where the affiliate relationship exists by reason of the ownership or control of any voting shares thereof by a member bank as executor, administrator, trustee, receiver, agent, depositary, or in any other fiduciary capacity, except where such shares are held for the benefit of all or a majority of the stockholders of such member bank; but as to any such affiliate, member banks shall continue to be subject to other provisions of law applicable to loans by such banks and investments by such banks in stocks, bonds, debentures, or other such obligations. The provisions of this section shall likewise not apply to indebtedness of any affiliate for unpaid balances due a bank on assets purchased from such bank or to loans secured by, or extensions of credit against, obligations of the United States or obligations fully guaranteed by the United States as to principal and interest.

For the purposes of this section, (1) the term "extension of credit" and "extensions of credit" shall be deemed to include (A) any purchase of securities, other assets or obligations under repurchase agreement, and (B) the discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse, except that the acquisition of such paper by a member bank from another bank, without recourse, shall not be deemed to be a "discount" by such member bank for such other bank; and (2) noninterest-bearing deposits to the credit of a bank shall not be deemed to be a loan or advance or extension of credit to the bank of deposit, nor shall the giving of immediate credit to a bank upon uncollected items received in the ordinary course of business be deemed to be a loan or advance or extension of credit to the depositing bank.

For the purposes of this section, the term "affiliate" shall include, with respect to any member bank, any bank holding company of which such member bank is a subsidiary within the meaning of the Bank Holding Company Act of 1956, as amended [12 U.S.C. 1841 et seq.], and any other subsidiary of such company.

The provisions of this section shall not apply to (1) stock, bonds, debentures, or other obligations of any company of the kinds described in section 4(c)(1) of the Bank Holding Company Act of 1956, as amended [12 U.S.C. 1843(c)(1)]; (2) stock, bonds, debentures, or other obligations accepted as security for debts previously contracted, provided that such collateral shall not be held for a period of over two years; (3) shares which are of the kinds and amounts eligible for investment by national banks under the provisions of section 24 of this title; (4) any extension of credit by a member bank to a bank holding company of which such bank is a subsidiary or to another subsidiary of such bank holding company, if made within one year after July 1, 1966, and pursuant to a contract lawfully entered into prior to January 1, 1966; or (5) any transaction by a member bank with another bank the deposits of which are insured by the Federal Deposit Insurance Corporation, if more than 50 per centum of the voting stock of such other bank is owned by the member bank or held by trustees for the benefit of the shareholders of the member bank.

(Dec. 23, 1913, ch. 6, § 23A, as added June 16, 1933, ch. 89, § 13, 48 Stat. 183, and amended Aug. 23, 1935, ch. 614, § 327, 49 Stat. 717; June 30, 1954, ch. 434, § 1, 68 Stat. 358; Sept. 8, 1959, Pub. L. 86-230, § 1(b), 73 Stat. 457; July 1, 1966, Pub. L. 89-485, §§ 12(a), 13(h), 80 Stat. 241, 243.)

REFERENCES IN TEXT

Section 25 of this Act, as amended, referred to in text, means section 25 of act Dec. 23, 1913, ch. 6, 38 Stat. 273, popularly known as the Federal Reserve Act. Section 25 is classified to subchapter I (§ 601 et seq.) of chapter 6 of this title.

Section 25(a) of this Act, as amended referred to in text, means section 25(a) of act Dec. 23, 1913, ch. 6, popularly known as the Federal Reserve Act. Section 25(a) is classified to subchapter II (§ 611 et seq.) of chapter 6 of this title.

The Bank Holding Company Act of 1956, referred to in text, is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§ 1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables volume.

AMENDMENTS

1966—Pub. L. 89-485 added the last three pars. and struck out from the third par. the introductory statement that the term "affiliate" shall include holding company affiliates as well as other affiliates, respectively. Such added pars. make "extension of credit" cover all purchases under repurchase agreements and the discount of promissory notes, bills of exchange, conditional sales contracts, or similar paper, whether with or without recourse, excluding therefrom such discounts by one bank for another, if without recourse, exclude from being deemed a loan, advance, or extension of credit noninterest bearing deposits to the credit of a bank or the giving of immediate credit to a bank for uncollected items received in the ordinary course of business, define the term "affiliate" (superseding one stricken from par. three), and exempt stocks, bonds, debentures, or other obligations of companies described in section 4(c)(1) of the Bank Holding Company Act of 1956, as amended; or accepted as security for debts previously contracted, shares of the kind and amounts eligible for investment by national banks under section 24 of this title, loans by a bank to its holding company or a fellow subsidiary if made within one year after July 1, 1966 and pursuant to a contract lawfully entered before Jan. 1, 1966, and transactions between a member bank and a majority-owned insured bank.

1959—Pub. L. 86-230 deleted from pars. 2 and 3 references to Home Owners' Loan Corporation following Federal Home Loan Banks.

1954—Act June 30, 1954, amended par. 3, substituting "solely" for "on June 16, 1934" following "(1) engaged" and deleting "or in maintaining and operating properties acquired for banking purposes prior to such date" following "is affiliated".

1935—Act Aug. 23, 1935, affected third par.

CROSS REFERENCES

Holding company affiliate, definition of, see section 221a of this title.

Section not to be affected by fact that transaction takes place outside the United States or that a company is organized or operates outside the United States, see section 1841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 601, 1828, 1841 of this title.

§ 371d. Investment in bank premises or stock of corporation holding premises

No national bank, without the approval of the Comptroller of the Currency, and no State member bank, without the approval of the Board of Governors of the Federal Reserve System, shall (1) invest in bank premises, or in the stock, bonds, debentures, or other such obligations of any corporation holding the premises of such bank, or (2) make loans to or upon the security of the stock of any such corporation, if the aggregate of all such investments and loans, together with the amount of any indebtedness incurred by any such corporation which is an affiliate of the bank, as defined in section 221a of this title, will exceed the amount of the capital stock of such bank.

(Dec. 23, 1913, ch. 6, § 24A, as added June 16, 1933, ch. 89, § 14, 48 Stat. 184, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; June 30, 1954, ch. 434, § 2, 68 Stat. 358.)

AMENDMENTS

1954—Act June 30, 1954, inserted "together with the amount of any indebtedness incurred by any such corporation which is an affiliate of the bank, as defined in section 221a of this title".

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 372. Acceptance of drafts or bills by member banks

Any member bank may accept drafts or bills of exchange drawn upon it having not more than six months sight to run, exclusive of days of grace, which grow out of transactions involving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods provided shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a ware-

house receipt or other such document conveying or securing title covering readily marketable staples. No member bank shall accept, whether in a foreign or domestic transaction, for any one person, company, firm, or corporation to an amount equal at any time in the aggregate to more than 10 per centum of its paid-up and unimpaired capital stock and surplus, unless the bank is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid-up and unimpaired capital stock and surplus: *Provided, however,* That the Board of Governors of the Federal Reserve System, under such general regulations as it may prescribe, which shall apply to all banks alike regardless of the amount of capital stock and surplus, may authorize any member bank to accept such bills to an amount not exceeding at any time in the aggregate 100 per centum of its paid-up and unimpaired capital stock and surplus: *Provided further,* That the aggregate of acceptances growing out of domestic transactions shall in no event exceed 50 per centum of such capital stock and surplus.

(Dec. 23, 1913, ch. 6, § 13, 38 Stat. 263; Mar. 3, 1915, ch. 93, 38 Stat. 958; Sept. 7, 1916, ch. 461, 39 Stat. 752; June 21, 1917, ch. 32, § 5, 40 Stat. 235; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Acceptances of other banks not subject to limitation based upon capital and surplus, see section 84 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 84, 412 of this title.

§ 373. Omitted

CODIFICATION

The provisions of this section, which related to acceptance of drafts or bills drawn by banks in foreign countries or dependencies of United States for purpose of dollar exchange, were added to R.S. § 5202 by act Sept. 7, 1916, ch. 461, 39 Stat. 753, were omitted in the amendment of R.S. § 5202 by act Apr. 5, 1918, ch. 45, § 20, 40 Stat. 512, and therefore this section has been omitted from the code. R.S. § 5202, as amended, is set out as section 82 of this title.

§ 374. Acting as agent for nonmember bank in getting discounts from reserve bank

No member bank shall act as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal reserve bank under the provisions of this chapter, except by permission of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 19, 38 Stat. 270; June 21, 1917, ch. 32, § 10, 40 Stat. 239; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCE IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of part of subsec. (e), formerly eighth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597, § 2(b), Sept. 21, 1966, 80 Stat. 824. Remainder of subsec. (e) of such section 19 is classified to section 463 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 374a. Acting as agent for nonbanking borrower in making loans on securities to dealers in stocks, bonds, etc.; penalties

No member bank shall act as the medium or agent of any nonbanking corporation, partnership, association, business trust, or individual in making loans on the security of stocks, bonds, and other investment securities to brokers or dealers in stocks, bonds, and other investment securities. Every violation of this provision by any member bank shall be punishable by a fine of not more than $100 per day during the continuance of such violation; and such fine may be collected, by suit or otherwise, by the Federal reserve bank of the district in which such member bank is located.

(Dec. 23, 1913, ch. 6, § 19(d), as added June 16, 1933, ch. 89, § 11(a), 48 Stat. 181, and renumbered Sept. 21, 1966, Pub. L. 89-597, § 2(b), 80 Stat. 824.)

CODIFICATION

Section is comprised of subsec. (d), formerly seventh par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 375. Purchases from directors; sales to directors

Any member bank may contract for, or purchase from, any of its directors or from any firm of which any of its directors is a member, any securities or other property, when (and not otherwise) such purchase is made in the regular course of business upon terms not less favorable to the bank than those offered to others, or when such purchase is authorized by a majority of the board of directors not interested in the sale of such securities or property, such authority to be evidenced by the affirmative vote or written assent of such directors: *Provided, however,* That when any director, or firm of which any director is a member, acting for or on behalf of others, sells securities or other property to a member bank, the Board of Governors of the Federal Reserve System by regulation may, in any or all cases, require a full disclosure to be made, on forms to be prescribed

by it, of all commissions or other considerations received, and whenever such director or firm, acting in his or its own behalf, sells securities or other property to the bank the Board of Governors of the Federal Reserve System, by regulation, may require a full disclosure of all profit realized from such sale.

Any member bank may sell securities or other property to any of its directors, or to a firm of which any of its directors is a member, in the regular course of business on terms not more favorable to such director or firm than those offered to others, or when such sale is authorized by a majority of the board of directors of a member bank to be evidenced by their affirmative vote or written assent: *Provided, however,* That nothing in this section contained shall be construed as authorizing member banks to purchase or sell securities or other property which such banks are not otherwise authorized by law to purchase or sell.

(Dec. 23, 1913, ch. 6, § 22(d), as added Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 503 of this title.

§ 375a. Loans to executive officers of banks

(1) General prohibition; authorization for extension of credit; conditions for credit

Except as authorized under this section, no member bank may extend credit in any manner to any of its own executive officers. No executive officer of any member bank may become indebted to that member bank except by means of an extension of credit which the bank is authorized to make under this section. Any extension of credit under this section shall be promptly reported to the board of directors of the bank, and may be made only if—

(A) the bank would be authorized to make it to borrowers other than its officers;

(B) it is on terms not more favorable than those afforded other borrowers;

(C) the officer has submitted a detailed current financial statement; and

(D) it is on condition that it shall become due and payable on demand of the bank at any time when the officer is indebted to any other bank or banks on account of extensions of credit of any one of the three categories respectively referred to in paragraphs (2), (3), and (4) in an aggregate amount greater than the amount of credit of the same category that could be extended to him by the bank of which he is an officer.

(2) Mortgage loans

With the specific prior approval of its board of directors, a member bank may make a loan not exceeding $30,000 to any executive officer of the bank if, at the time the loan is made—

(A) it is secured by a first lien on a dwelling which is expected, after the making of the loan, to be owned by the officer and used by him as his residence, and

(B) no other loan by the bank to the officer under authority of this paragraph is outstanding.

(3) Educational loans

A member bank may make extensions of credit to any executive officer of the bank, not exceeding the aggregate amount of $10,000 outstanding at any one time, to finance the education of the children of the officer.

(4) General limitation on amount of credit

A member bank may make extensions of credit not otherwise specifically authorized under this section to any executive officer of the bank, not exceeding the aggregate amount of $5,000 outstanding at any one time.

(5) Partnership loans

Except to the extent permitted under paragraph (4), a member bank may not extend credit to a partnership in which one or more of its executive officers are partners having either individually or together a majority interest. For the purposes of paragraph (4), the full amount of any credit so extended shall be considered to have been extended to each officer of the bank who is a member of the partnership.

(6) Report of date and amount of credit extensions, security, and uses of proceeds upon excessive extension of credit

Whenever an executive officer of a member bank becomes indebted to any bank or banks (other than the one to which he is an officer) on account of extensions of credit of any one of the three categories respectively referred to in paragraphs (2), (3), and (4) in an aggregate amount greater than the aggregate amount of credit of the same category that could lawfully be extended to him by the bank, he shall make a written report to the board of directors of the bank, stating the date and amount of each such extension of credit, the security therefor, and the purposes for which the proceeds have been or are to be used.

(7) Endorsement or guarantee of loans or assets; protective indebtedness

This section does not prohibit any executive officer of a member bank from endorsing or guaranteeing for the protection of the bank any loan or other asset previously acquired by the bank in good faith or from incurring any indebtedness to the bank for the purpose of protecting the bank against loss or giving financial assistance to it.

(8) Continuation of violation

Each day that any extension of credit in violation of this section exists is a continuation of the violation for the purposes of section 1818 of this title.

(9) Report of loan activity since previous report of condition

Each member bank shall include with (but not as part of) each report of condition and copy thereof filed under section 1817(a)(3) of this title a report of all loans under authority of this section made by the bank since its previous report of condition.

(10) Rules and regulations; definitions

The Board of Governors of the Federal Reserve System may prescribe such rules and regulations, including definitions of terms, as it

deems necessary to effectuate the purposes and to prevent evasions of this section.

(Dec. 23, 1913, ch. 6, § 22(g), as added June 16, 1933, ch. 89, § 12, 48 Stat. 182, and amended June 14, 1935, ch. 245, 49 Stat. 375; Aug. 23, 1935, ch. 614, § 326(c), 49 Stat. 716; Apr. 25, 1938, ch. 173, 52 Stat. 223; June 20, 1939, ch. 214, § 1, 53 Stat. 842; July 3, 1967, Pub. L. 90-44, § 1, 81 Stat. 109.)

CODIFICATION

Proviso which permitted renewal or extension of loans made to executive officers prior to June 16, 1933, for periods expiring not more than five years from June 16, 1939, was omitted as obsolete.

AMENDMENTS

1967—Par. (1). Pub. L. 90-44 rewrote in the first sentence of provisions designated as par. (1) the prohibition of former first sentence against any executive officer borrowing or otherwise becoming indebted to a member bank of which he is an officer and against any member bank making any loan or extending credit in any other manner to any of its own executive officers, authorized member banks to extend credit to such executive officers and to report such extensions to the board of directors, and provided in subpars. (A) to (D) conditions for such extension of credit.

Pars. (2), (3), Pub. L. 90-44 added provisions, designated as pars. (2) and (3), for mortgage loans and educational loans, respectively.

Par. (4). Pub. L. 90-44 incorporated proviso of first sentence in provisions designated as par. (4), increased the amount of available credit from $2,500 to $5,000 and eliminated requirement of prior approval of credit by majority of entire board of directors.

Par. (5). Pub. L. 90-44 substituted provisions, designated as par. (5), for extension of credit to partnerships for former provisions of third sentence that "Borrowing by, or loaning to, a partnership in which one or more executive officers of a member bank are partners having either individually or together a majority interest in said partnership, shall be considered within the prohibition of this section".

Par. (6). Pub. L. 90-44 incorporated reporting requirement of second sentence in provisions designated as par. (6) but limited it to extensions of credit from other banks to the executive officers as exceeded amounts available to such officers from their member banks under pars. (2) to (4) of this section.

Par. (7). Pub. L. 90-44 designated provisions of fourth sentence as par. (7).

Par. (8). Pub. L. 90-44 designated proviso of sixth sentence as par. (8) and identified the violation as one for purposes of section 1818 of this title.

Par. (9). Pub. L. 90-44 added requirement, designated as par. (9), that member banks report all loans made under authority of this section since previous report of condition.

Par. (10). Pub. L. 90-44 designated provisions of fifth sentence as par. (10) and substituted general authorization for definition of terms for former specific authorization for definition of "executive officer" and for determination what shall be deemed to be a borrowing, indebtedness, loan, or extension of credit.

Pub. L. 90-44 eliminated former sixth sentence, less proviso, which provided for removal from office in manner prescribed in former section 77 of this title of any executive officer of member bank accepting a loan or extension of credit in violation of this section.

1939—Act June 20, 1939, substituted "June 16, 1939," for "from such date", in first sentence.

1938—Par. (1). Act Apr. 25, 1938, substituted "six" for "five" in first sentence.

1935—Act Aug. 23, 1935, added last two provisos.

Act June 14, 1935, struck out a proviso and inserted in lieu thereof the first proviso of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 503 of this title.

§ 376. Rate of interest paid to directors, etc.

No member bank shall pay to any director, officer, attorney, or employee a greater rate of interest on the deposits of such director, officer, attorney, or employee than that paid to other depositors on similar deposits with such member bank.

(Dec. 23, 1913, ch. 6, § 22(e), as added Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 503 of this title.

§ 377. Affiliation with organization dealing in securities; penalties

After one year from June 16, 1933, no member bank shall be affiliated in any manner described in subsection (b) of section 221a of this title with any corporation, association, business trust, or other similar organization engaged principally in the issue, flotation, underwriting, public sale, or distribution at wholesale or retail or through syndicate participation of stocks, bonds, debentures, notes, or other securities: *Provided*, That nothing in this paragraph shall apply to any such organization which shall have been placed in formal liquidation and which shall transact no business except such as may be incidental to the liquidation of its affairs.

For every violation of this section the member bank involved shall be subject to a penalty not exceeding $1,000 per day for each day during which such violation continues. Such penalty may be assessed by the Board of Governors of the Federal Reserve System, in its discretion, and, when so assessed, may be collected by the Federal reserve bank by suit or otherwise.

If any such violation shall continue for six calendar months after the member bank shall have been warned by the Board of Governors of the Federal Reserve System to discontinue the same, (a) in the case of a national bank, all the rights, privileges, and franchises granted to it under the National Bank Act, may be forfeited in the manner prescribed in sections 141, 222 to 225, 281 to 283, 285, 286, 501a, and 502 of this title, or, (b) in the case of a State member bank, all of its rights and privileges of membership in the Federal Reserve System may be forfeited in the manner prescribed in subchapter VIII of this chapter.

(June 16, 1933, ch. 89, § 20, 48 Stat. 188; Aug. 23, 1935, ch. 614, §§ 203(a), 302, 49 Stat. 704, 707.)

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99. For classification of this Act to the Code, see References in Text note set out under section 38 of this title.

Subchapter VIII of this chapter, referred to in text, read in the original "section 9 of the Federal Reserve Act, as amended (U.S.C., title 12, secs. 321-332)". Section 9 is classified to sections 321 to 338 of this title.

AMENDMENTS

1935—Act Aug. 23, 1935, § 302, added proviso at end of first par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 378. Dealers in securities engaging in banking business; individuals or associations engaging in banking business; examinations and reports; penalties

(a) After the expiration of one year after June 16, 1933, it shall be unlawful—

(1) For any person, firm, corporation, association, business trust, or other similar organization, engaged in the business of issuing, underwriting, selling, or distributing, at wholesale or retail, or through syndicate participation, stocks, bonds, debentures, notes, or other securities, to engage at the same time to any extent whatever in the business of receiving deposits subject to check or to repayment upon presentation of a passbook, certificate of deposit, or other evidence of debt, or upon request of the depositor: *Provided,* That the provisions of this paragraph shall not prohibit national banks or State banks or trust companies (whether or not members of the Federal Reserve System) or other financial institutions or private bankers from dealing in, underwriting, purchasing, and selling investment securities, or issuing securities, to the extent permitted to national banking associations by the provisions of section 24 of this title: *Provided further,* That nothing in this paragraph shall be construed as affecting in any way such right as any bank, banking association, savings bank, trust company, or other banking institution, may otherwise possess to sell, without recourse or agreement to repurchase, obligations evidencing loans on real estate; or

(2) For any person, firm, corporation, association, business trust, or other similar organization to engage, to any extent whatever with others than his or its officers, agents or employees, in the business of receiving deposits subject to check or to repayment upon presentation of a pass book, certificate of deposit, or other evidence of debt, or upon request of the depositor, unless such person, firm, corporation, association, business trust, or other similar organization (A) shall be incorporated under, and authorized to engage in such business by, the laws of the United States or of any State, Territory, or District, and subjected, by the laws of the United States, or of the State, Territory, or District wherein located, to examination and regulation, or (B) shall be permitted by any State, Territory, or District to engage in such business and shall be subjected by the law of such State, Territory, or District to examination and regulation, or (C) shall submit to periodic examination by the banking authority of the State, Territory, or District where such business is carried on and shall make and publish periodic reports of its condition, exhibiting in detail its resources and liabilities, such examination and reports to be made and published at the same times and in the same manner and under the same conditions as required by the law of such State, Territory, or District in the case of incorporated banking institutions engaged in such business in the same locality.

(b) Whoever shall willfully violate any of the provisions of this section shall upon conviction be fined not more than $5,000 or imprisoned not more than five years, or both, and any officer, director, employee, or agent of any person, firm, corporation, association, business trust, or other similar organization who knowingly participates in any such violation shall be punished by a like fine or imprisonment or both.

(June 16, 1933, ch. 89, § 21, 48 Stat. 189; Aug. 23, 1935, ch. 614, § 303, 49 Stat. 707; Sept. 8, 1959, Pub. L. 86-230, § 23, 73 Stat. 466; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 804(d), 82 Stat. 543.)

AMENDMENTS

1968—Subsec. (a)(1). Pub. L. 90-448 inserted ", or issuing securities" in the first proviso.

1959—Subsec. (a). Pub. L. 86-230 inserted "and subjected, by the laws of the United States, or of the State, Territory, or District wherein located, to examination and regulation," following "District," in cl. (2)(A).

1935—Subsec. (a). Act Aug. 23, 1935, added two provisos to end of par. (1) and amended par. (2) generally.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

CROSS REFERENCES

Felony defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER XI—DEPOSITARIES AND FISCAL AGENTS

§ 391. Federal reserve banks as Government depositaries and fiscal agents

The moneys held in the general fund of the Treasury, except the 5 per centum fund for the redemption of outstanding national-bank notes may, upon the direction of the Secretary of the Treasury, be deposited in Federal reserve banks, which banks, when required by the Secretary of the Treasury, shall act as fiscal agents of the United States; and the revenues of the Government or any part thereof may be deposited in such banks, and disbursements may be made by checks drawn against such deposits.

(Dec. 23, 1913, ch. 6, § 15, 38 Stat. 265; Mar. 18, 1968, Pub. L. 90-269, § 2, 82 Stat. 50.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of first par. of section 15 of act Dec. 23, 1913. Par. 2 of section 15 and par. 3 of section 15, as added Mar. 4, 1923, ch. 252, title IV, § 406, 42 Stat. 1480, are classified to sections 392 and 393 of this title.

AMENDMENTS

1968—Pub. L. 90-269 struck out provision which excepted funds provided in this chapter for the redemption of Federal Reserve notes from deposit in Federal reserve banks.

CROSS REFERENCES

Deposit of money or bullion with Federal reserve banks, see section 477 of Title 31, Money and Finance.

Inter-American Development Bank, see section 283d of Title 22, Foreign Relations and Intercourse.

International Finance Corporation, see section 282d of Title 22.

International Monetary Fund and Bank for Reconstruction and Rehabilitation, see section 286d of Title 22.

Reimbursement for expenses incident to acting as depositaries and fiscal agents, see section 1023 of Title 31, Money and Finance.

Transfer of duties of assistant treasurers to other officers, etc., see section 476 of Title 31.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 476.

§ 392. Depositaries of Government funds as confined to banks in Federal reserve system; member banks as depositaries

No public funds of the postal savings, or any Government funds, shall be deposited in the continental United States in any bank not belonging to the system established by this chapter: *Provided, however,* That nothing in this chapter shall be construed to deny the right of the Secretary of the Treasury to use member banks as depositaries.

(Dec. 23, 1913, ch. 6, § 15, 38 Stat. 265; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Words "of the Philippine Islands, or" following "No public funds" were deleted on authority of 1946 Proc. No. 2695, which granted independence to the Philippine Islands pursuant to section 1394 of Title 22. Proc. No. 2695 is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

Section is comprised of second par. of section 15 of act Dec. 23, 1913. Par. 1 of section 15 and par. 3 of section 15, as added Mar. 4, 1923, ch. 252, title IV, § 406, 42 Stat. 1480, are classified to sections 391 and 393 of this title.

CROSS REFERENCES

Transfer of duties of assistant treasurers to other officers, etc., see section 476 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 section 476.

§ 393. Federal reserve banks as depositaries for Farm Credit System

The Federal Reserve banks are authorized to act as depositaries for and fiscal agents of any Federal land bank, Federal intermediate credit bank, bank for cooperatives, or other institutions of the Farm Credit System.

(Dec. 23, 1913, ch. 6, § 15 (par.), as added Mar. 4, 1923, ch. 252, title IV, § 406, 42 Stat. 1480, and amended Dec. 10, 1971, Pub. L. 92-181, title V, § 5.27(b), 85 Stat. 625.)

CODIFICATION

Section is comprised of third par. of section 15 of act Dec. 23, 1913, as added Mar. 4, 1923. Pars. 1 and 2 of section 15 are classified to sections 391 and 392 of this title.

AMENDMENTS

1971—Pub. L. 92-181 substituted "Federal land bank, Federal intermediate credit bank, bank for cooperatives, or other institutions of the Farm Credit System" for "national agricultural credit corporation or Federal intermediate credit bank".

§ 394. Federal reserve banks as depositaries for and fiscal agents of Home Owners' Loan Corporation

The Federal Reserve banks are authorized, with the approval of the Secretary of the Treasury, to act as depositaries, custodians, and fiscal agents for the Home Owners' Loan Corporation.

(Apr. 27, 1934, ch. 168, § 8, 48 Stat. 646.)

ABOLISHMENT OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of the Home Owners' Loan Corporation, referred to in the section, by act June 30, 1953, ch. 170, § 21, 67 Stat. 126, see note under former section 1463 of this title.

§ 395. Federal reserve banks as depositaries, custodians and fiscal agents for Commodity Credit Corporation

The Federal Reserve banks are authorized to act as depositaries, custodians, and fiscal agents for the Commodity Credit Corporation.

(July 16, 1943, ch. 241, § 3, 57 Stat. 566.)

TRANSFER OF FUNCTIONS

Administration of program of Commodity Credit Corporation was transferred to Secretary of Agriculture by Reorg. Plan No. 3 of 1946, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100. See Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER XII—FEDERAL RESERVE NOTES

§ 411. Issuance to reserve banks; nature of obligation; redemption

Federal reserve notes, to be issued at the discretion of the Board of Governors of the Federal Reserve System for the purpose of making advances to Federal reserve banks through the Federal reserve agents as hereinafter set forth and for no other purpose, are authorized. The said notes shall be obligations of the United States and shall be receivable by all national and member banks and Federal reserve banks and for all taxes, customs, and other public dues. They shall be redeemed in lawful money on demand at the Treasury Department of the United States, in the city of Washington, Dis-

trict of Columbia, or at any Federal Reserve bank.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 265; Jan. 30, 1934, ch. 6, § 2(b)(1), 48 Stat. 337; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Phrase "hereinafter set forth" is from section 16 of the Federal Reserve Act, act Dec. 23, 1913. Reference probably means as set forth in sections 17 et seq. of the Federal Reserve Act. For distribution of the sections in this Code see Distribution note under section 226 of this title, and the Tables.

CODIFICATION

Section is comprised of first par. of section 16 of act Dec. 23, 1913. Pars. 2 to 4, 5, and 6, 7, 8 to 11, 13 and 14 of section 16, and pars. 15 to 18 of section 16, as added June 21, 1917, ch. 32, § 8, 40 Stat. 238, are classified to sections 412 to 414, 415, 416, 418 to 421, 360, 248(o) and 467, respectively, of this title.

Par. 12 of section 16, formerly classified to section 422 of this title, was repealed by act June 26, 1934, ch. 756, § 1, 48 Stat. 1225.

AMENDMENTS

1934—Act Jan. 30, 1934, omitted provision permitting redemption in gold, from last sentence.

CHANGE OF NAME

Act of Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Gold coinage discontinued, see section 315b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title; title 31 sections 440, 444, 445, 446, 822b.

§ 412. Application for notes; collateral required

Any Federal Reserve bank may make application to the local Federal Reserve agent for such amount of the Federal Reserve notes hereinbefore provided for as it may require. Such application shall be accompanied with a tender to the local Federal Reserve agent of collateral in amount equal to the sum of the Federal Reserve notes thus applied for and issued pursuant to such application. The collateral security thus offered shall be notes, drafts, bills of exchange, or acceptances acquired under the provisions of sections 342 to 347, 347c, and 372 of this title, or bills of exchange endorsed by a member bank of any Federal Reserve district and purchased under the provisions of sections 348a and 353 to 359 of this title, or bankers' acceptances purchased under the provisions of said sections 348a and 353 to 359 of this title, or gold certificates, or Special Drawing Right certificates, or direct obligations of the United States. In no event shall such collateral security be less than the amount of Federal Reserve notes applied for. The Federal Reserve agent shall each day notify the Board of Governors of the Federal Reserve System of all issues and withdrawals of Federal Reserve notes to and by the Federal Reserve bank to which he is accredited. The said Board of Governors of the Federal Reserve System may at any time call upon a Federal Reserve bank for additional security to protect the Federal Reserve notes issued to it.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 265; Sept. 7, 1916, ch. 461, 39 Stat. 754; June 21, 1917, ch. 32, § 7, 40 Stat. 236; Feb. 27, 1932, ch. 58, § 3, 47 Stat. 57; Feb. 3, 1933, ch. 34, 47 Stat. 794; Jan. 30, 1934, ch. 6, § 2(b)(2), 48 Stat. 338; Mar. 6, 1934, ch. 47, 48 Stat. 398; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; Mar. 1, 1937, ch. 20, 50 Stat. 23; June 30, 1939, ch. 256, 53 Stat. 991; June 30, 1941, ch. 264, 55 Stat. 395; May 25, 1943, ch. 102, 57 Stat. 85; June 12, 1945, ch. 186, § 2, 59 Stat. 237; June 19, 1968, Pub. L. 90-349, § 5(a), 82 Stat. 189.)

CODIFICATION

Section is comprised of second par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-349 added Special Drawing Right certificates to the types of allowable collateral security which may be tendered for Federal Reserve notes.

1945—Act June 12, 1945, substituted ", or direct obligations of the United States." for proviso following "gold certificates" in first sentence which limited period during which direct obligations of the United States could be accepted as collateral security.

1943—Act May 25, 1943, substituted "until June 30, 1945" for "until June 30, 1943," in proviso.

1941—Act June 30, 1941, substituted "until June 30, 1943" for "until June 30, 1941" in proviso.

1939—Act June 30, 1939, substituted "until June 30, 1941" for "until June 30, 1939" in proviso.

1937—Act Mar. 1, 1937, extended until June 30, 1939, the period within which direct obligations of the United States may be accepted as collateral security under this section, and omitted the provision authorizing the President to extend the period.

1934—Act Mar. 6, 1934, affected proviso and two sentences immediately following it.

Act Jan. 30, 1934, affected portion of third sentence preceding proviso.

1933—Act Feb. 3, 1933, substituted "March 3, 1934" for "March 3, 1933", wherever appearing.

1932—Act Feb. 27, 1932, added proviso and two sentences immediately following.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

UNITED STATES OBLIGATIONS AS COLLATERAL; EXTENSION OF PERIOD

The period within which direct obligations of the United States could be accepted as collateral security under this section was extended to Mar. 3, 1937, by Proclamation No. 2117, of Feb. 14, 1935, 49 Stat. 3437; extended to June 30, 1939, by act Mar. 1, 1937; extended to June 30, 1941, by act June 30, 1939; extended to June 30, 1943, by act June 30, 1941; and extended to June 30, 1945, by act May 25, 1943. Act June 12, 1945, amended section to remove the time limitation.

CROSS REFERENCES

Notes upon which advances are made not eligible as collateral security, see section 347a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 347a, 348, 420, 421, 467 of this title; title 31 sections 440, 444, 445, 446, 822b.

§ 413. Distinctive letter and serial number of notes; cancellation of notes unfit for circulation; accounting; apportionment of credit among Federal Reserve banks

Federal Reserve notes shall bear upon their faces a distinctive letter and serial number which shall be assigned by the Board of Governors of the Federal Reserve System to each Federal Reserve bank. Federal Reserve notes unfit for circulation shall be canceled, destroyed, and accounted for under procedures prescribed and at locations designated by the Secretary of the Treasury. Upon destruction of such notes, credit with respect thereto shall be apportioned among the twelve Federal Reserve banks as determined by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 266; June 21, 1917, ch. 32, § 7, 40 Stat. 236; Jan. 30, 1934, ch. 6, § 2(b)(3), (4), 48 Stat. 338; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; June 12, 1945, ch. 186, § 1(a), 59 Stat. 237; July 19, 1954, ch. 547, 68 Stat. 495; Mar. 3, 1965, Pub. L. 89-3, § 1, 79 Stat. 5; May 20, 1966, Pub. L. 89-427, § 3, 80 Stat. 161; Mar. 18, 1968, Pub. L. 90-269, § 3, 82 Stat. 50.)

CODIFICATION

Section is comprised of third par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-269 substituted requirement that Federal Reserve notes bear upon their faces a distinctive letter and serial number which shall be assigned by the Board of Governors to each Federal Reserve bank for former requirement that each Federal Reserve bank maintain reserves in gold certificates of not less than 25 percent against its Federal Reserve notes in actual circulation and former provisions respecting redemption by the Treasury of Federal Reserve notes.

1966—Pub. L. 89-427 substituted provisions that Federal Reserve notes unfit for circulation be canceled, destroyed, and accounted for under procedures prescribed and at locations designated by the Secretary of the Treasury and that credit with respect to the destruction of the notes be apportioned among the twelve Federal Reserve banks as determined by the Board of Governors of the Federal Reserve System for provisions that Federal Reserve notes unfit for circulation be returned by the Federal Reserve agents to the Comptroller of the Currency for cancellation and destruction.

1965—Pub. L. 89-3 eliminated the requirement that each Federal Reserve bank maintain reserves in gold certificates against deposit liabilities.

1954—Act July 19, 1954, eliminated provisions prohibiting a Federal Reserve bank from paying out notes of another Federal Reserve bank.

1945—Act June 12, 1945, amended first sentence generally by omitting "or lawful money" following "reserves in gold certificates", substituting "25 per centum" for "35 per centum" and "40 per centum", respectively.

1934—Act Jan. 30, 1934, amended first, fifth, and sixth sentences.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 315b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title; title 31 sections 440, 444, 445, 446, 822b.

§ 414. Authority of Board of Governors respecting issuance of notes; interest; lien

The Board of Governors of the Federal Reserve System shall have the right, acting through the Federal Reserve agent, to grant in whole or in part, or to reject entirely the application of any Federal Reserve bank for Federal Reserve notes; but to the extent that such application may be granted the Board of Governors of the Federal Reserve System shall, through its local Federal Reserve agent, supply Federal Reserve notes to the banks so applying, and such bank shall be charged with the amount of the notes issued to it and shall pay such rate of interest as may be established by the Board of Governors of the Federal Reserve system on only that amount of such notes which equals the total amount of its outstanding Federal Reserve notes less the amount of gold certificates held by the Federal Reserve agent as collateral security. Federal Reserve notes issued to any such bank shall, upon delivery, together with such notes of such Federal Reserve bank as may be issued under subchapter XIII of this chapter upon security of United States 2 per centum Government bonds, become a first and paramount lien on all the assets of such bank.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 266; June 21, 1917, ch. 32, § 7, 40 Stat. 236; Jan. 30, 1934, ch. 6, § 2(b)(5), 48 Stat. 338; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; June 12, 1945, ch. 186, § 1(b), 59 Stat. 237; Mar. 18, 1968, Pub. L. 90-269, § 4, 82 Stat. 50.)

REFERENCES IN TEXT

Subchapter XIII [§ 441 et seq.] of this chapter, referred to in text, read in the original "section 18 of this Act", meaning section 18 of act Dec. 23, 1913.

CODIFICATION

Section is comprised of fourth par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-269 repealed first sentence provisions that Board of Governors require each Federal Reserve bank to maintain on deposit in the Treasury a sum in gold certificates sufficient, in the judgment of the Secretary of the Treasury, for redemption of Federal Reserve notes issued to such bank, but not less than 5 percent of total amount of notes issued less amount of gold certificates held by the Federal Reserve agent as collateral security, and counting and including such deposit of gold certificates as part of the 25 percent reserve formerly required by section 413 of this title to be maintained against Federal Reserve notes in actual circulation and substituted in the first, formerly second sentence, "Board of Governors of the Federal Reserve System" for "Board".

1945—Act June 12, 1945, substituted in the first sentence "25 per centum reserve required by section 413 of this title to be maintained against Federal Reserve

notes in actual circulation" for "40 per centum reserve required by section 413 of this title".

1934—Act Jan. 30, 1934, affected first sentence.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Gold coinage discontinued, see section 315b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title; title 31 sections 440, 444, 445, 446, 822b.

§ 415. Reduction of liability for outstanding notes by depositing notes and collateral and payment of notes of series prior to 1928; reissue of deposited notes

Any Federal Reserve bank may at any time reduce its liability for outstanding Federal Reserve notes by depositing with the Federal Reserve agent its Federal Reserve notes, gold certificates, Special Drawing Right certificates, or lawful money of the United States. Federal Reserve notes so deposited shall not be reissued, except upon compliance with the conditions of an original issue. The liability of a Federal Reserve bank with respect to its outstanding Federal Reserve notes shall be reduced by an amount paid by such bank to the Secretary of the Treasury under section 913 of title 31.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 267; June 21, 1917, ch. 32, § 7, 40 Stat. 236; Jan. 30, 1934, ch. 6, § 2(b)(5), 48 Stat. 339; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; June 30, 1961, Pub. L. 87-66, § 8(a), 75 Stat. 147; Mar. 18, 1968, Pub. L. 90-269, § 5, 82 Stat. 50; June 19, 1968, Pub. L. 90-349, § 5(b), 82 Stat. 189.)

CODIFICATION

Section is comprised of fifth and sixth pars. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-349 added Special Drawing Right certificates to the types of deposits which Federal Reserve banks may use in reducing their liability for outstanding Federal Reserve notes.

Pub. L. 90-269 repealed the second par. (sixth par, of section 16 of Act Dec. 23, 1913) which provided that the Federal Reserve agent shall hold the gold certificates and lawful money for exchange for the outstanding Federal Reserve notes and that upon the request of the Secretary of the Treasury, the Board of Governors shall require the agent to transmit to the Treasurer of the United States as many gold certificates held by him as collateral as may be required for the exclusive purpose of the redemption of such Federal Reserve notes.

1961—Pub. L. 87-66 provided for reduction of liability for outstanding notes by payment of notes of series prior to 1928.

1934—Act Jan. 30, 1934, dropped the word "gold" wherever it appeared before the words "gold certificates," and inserted "certificates" after "gold" wherever latter stood alone.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 315b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title; title 31 sections 440, 444, 445, 446, 822b.

§ 416. Withdrawal of collateral deposited to protect notes and substitution of other collateral; retirement of notes; payment of notes of series prior to 1928; recovery of collateral; reissue of deposited notes

Any Federal Reserve bank may at its discretion withdraw collateral deposited with the local Federal Reserve agent for the protection of its Federal Reserve notes issued to it, and shall at the same time substitute therefor other collateral of equal amount with the approval of the Federal Reserve agent under regulations to be prescribed by the Board of Governors of the Federal Reserve System. Any Federal Reserve bank may retire any of its Federal Reserve notes by depositing them with the Federal Reserve agent or with the Treasurer of the United States, and such Federal Reserve bank shall thereupon be entitled to receive back the collateral deposited with the Federal Reserve agent for the security of such notes. Any Federal Reserve bank shall further be entitled to receive back the collateral deposited with the Federal Reserve agent for the security of any notes with respect to which such bank has made payment to the Secretary of the Treasury under section 913 of title 31. Federal Reserve notes so deposited shall not be reissued except upon compliance with the conditions of an original issue.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 267; June 21, 1917, ch. 32, § 7, 40 Stat. 236; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; June 30, 1961, Pub. L. 87-66, § 8(b), 75 Stat. 147; Mar. 18, 1968, Pub. L. 90-269, § 6, 82 Stat. 50.)

CODIFICATION

Section is comprised of seventh par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-269 repealed the fourth sentence which provided that Federal Reserve banks shall not be required to maintain the reserve or the redemption fund against Federal Reserve notes which have been retired, or as to which payment has been made to the Secretary of the Treasury under section 913 of title 31, on notes of series prior to 1928.

1961—Pub. L. 87-66 provided for recovery of collateral upon payment of notes of series prior to 1928 and removed requirement of reserve or redemption fund for such notes.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

SECTIONS REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 417. Custody and safe-keeping of notes issued to and collateral deposited with reserve agent

All Federal Reserve notes and all gold certificates, Special Drawing Right certificates, and lawful money issued to or deposited with any Federal Reserve agent under the provisions of this chapter shall be held for such agent, under such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, in the joint custody of himself and the Federal Reserve bank to which he is accredited. Such agent and such Federal Reserve bank shall be jointly liable for the safe-keeping of such Federal Reserve notes, gold certificates, Special Drawing Right certificates, and lawful money. Nothing herein contained, however, shall be construed to prohibit a Federal Reserve agent from depositing gold certificates and Special Drawing Right certificates with the Board of Governors of the Federal Reserve System, to be held by such Board subject to his order, or with the Treasurer of the United States, for the purposes authorized by law.

(June 21, 1917, ch. 32, § 7, 40 Stat. 236; Jan. 30, 1934, ch. 6, § 2(b)(6), 48 Stat. 339; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; June 19, 1968, Pub. L. 90-349, § 5(c), 82 Stat. 189.)

REFERENCES IN TEXT

In the original, "this chapter" read "the Federal Reserve Act". For distribution of the Federal Reserve Act in this Code, see Distribution note set out under section 226 of this title.

CODIFICATION

Section is comprised of last par. of section 7 of act June 21, 1917. The preceding pars. of section 7 amended pars. two, three, four, five, six, and seven of section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-349 added references to Special Drawing Right certificates.

1934—Act Jan. 30, 1934, dropped the word "gold," wherever it appeared before word "certificates".

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 315b of Title 31. Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 31 sections 440, 444, 445, 446, 822b.

§ 418. Printing of notes; denomination and form

In order to furnish suitable notes for circulation as Federal reserve notes, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved in the best manner to guard against counterfeits and fraudulent alterations, and shall have printed therefrom and numbered such quantities of such notes of the denominations of $1, $2, $5, $10, $20, $50, $100, $500, $1,000, $5,000, $10,000 as may be required to supply the Federal Reserve banks. Such notes shall be in form and tenor as directed by the Secretary of the Treasury under the provisions of this chapter and shall bear the distinctive numbers of the several Federal reserve banks through which they are issued.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 267; Sept. 26, 1918, ch. 177, § 3, 40 Stat. 969; June 4, 1963, Pub. L. 88-36, title I, § 3, 77 Stat. 54.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of eighth par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

AMENDMENTS

1963—Pub. L. 83-36 inserted "$1, $2," following "notes of the denominations of".

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 419. Place of deposit of notes prior to delivery to banks

When such notes have been prepared, they shall be deposited in the Treasury, or in the designated depositary or mint of the United States nearest the place of business of each Federal reserve bank and shall be held for the use of such bank subject to the order of the Comptroller of the Currency for their delivery, as provided by this chapter.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 267; May 29, 1920, ch. 214, § 1, 41 Stat. 654.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of ninth par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 421, 467 of this title.

§ 420. Control and direction of plates and dies by comptroller; expense of issue and retirement of notes paid by banks

The plates and dies to be procured by the Comptroller of the Currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the laws relating to the procuring of such notes, and all other expenses incidental to their issue and retirement, shall be paid by the Federal reserve banks, and the Board of Governors of the Federal Reserve System shall include in its estimate of expenses levied against the Federal reserve banks a sufficient amount to cover the expenses herein provided for.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 267; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Phrase "herein provided for", referred to in text, probably means as provided for in section of act Dec. 23, 1913. For classification to this title of section 16, see Codification note under section 411 of this title.

CODIFICATION

Section is comprised of tenth par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 421, 467 of this title.

§ 421. Examination of plates and dies

The examination of plates, dies, bed pieces, and so forth, and regulations relating to such examination of plates, dies, and so forth, of national-bank notes provided for in section 108 of this title, is extended to include notes herein provided for.

(Dec. 23, 1913, ch. 6, § 16, 38 Stat. 267.)

REFERENCES IN TEXT

Phrase "herein provided for", referred to in text, probably means as provided for in section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note under section 411 of this title.

CODIFICATION

Section is comprised of eleventh par. of section 16 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 348, 420, 467 of this title.

§ 422. Repealed. June 26, 1934, ch. 756, § 1, 48 Stat. 1225

Section, act Dec. 23, 1913, ch. 6, § 16, 38 Stat. 267, made permanent appropriations for printing notes besides authorizing the use of certain printing stock on hand December 23, 1913.

SUBCHAPTER XIII—CIRCULATING NOTES AND BONDS SECURING SAME

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 414 of this title.

§ 441. Retirement of circulating notes by member banks; application for sale of bonds securing circulation

At any time during a period of twenty years from December 23, 1915, any member bank desiring to retire the whole or any part of its circulating notes may file with the Treasurer of the United States an application to sell for its account, at par and accrued interest, United States bonds, securing circulation to be retired.

(Dec. 23, 1913, ch. 6, § 18, 38 Stat. 268.)

CODIFICATION

Section is comprised of first par. of section 18 of act Dec. 23, 1913. Pars. 2 and 3, 4, 5, and 7 to 9 of section 18 are classified to sections 442, 443, 444, and 446 to 448 of this title, respectively. Par. 6 of section 18, which was classified to section 445 of this title, was repealed by act June 12, 1945, ch. 186, § 3, 59 Stat. 238.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

§ 442. Purchase of bonds by reserve banks

The Treasurer shall, at the end of each quarterly period, furnish the Board of Governors of the Federal Reserve System with a list of such applications, and the Board of Governors of the Federal Reserve System may, in its discretion, require the Federal reserve banks to purchase such bonds from the banks whose applications have been filed with the Treasurer at least ten days before the end of any quarterly period at which the Board of Governors of the Federal Reserve System may direct the purchase to be made: *Provided,* That Federal reserve banks shall not be permitted to purchase an amount to exceed $25,000,000 of such bonds in any one year, and which amount shall include bonds acquired under section 4 of this Act by the Federal reserve bank.

Provided further, That the Board of Governors of the Federal Reserve System shall allot to each Federal reserve bank such proportion of such bonds as the capital and surplus of such bank shall bear to the aggregate capital and surplus of all the Federal reserve banks.

(Dec. 23, 1913, ch. 6, § 18, 38 Stat. 268; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Section 4 of this Act, referred to in text, is section 4 of act Dec. 23, 1913, ch. 6, 38 Stat. 251. Section 4 is classified to subchapter VII (§ 301 et seq.) of this chapter and to section 341 of this title.

CODIFICATION

Section is comprised of second and third pars. of section 18 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 18, see Codification note under section 441 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

§ 443. Transfer of bonds purchased; payment; cancellation of circulating notes of member banks

Upon notice from the Treasurer of the amount of bonds so sold for its account, each member bank shall duly assign and transfer, in writing, such bonds to the Federal reserve bank purchasing the same, and such Federal reserve bank shall, thereupon, deposit lawful money with the Treasurer of the United States for the purchase price of such bonds, and the Treasurer shall pay to the member bank selling such bonds any balance due after deducting a sufficient sum to redeem its outstanding notes secured by such bonds, which notes shall be canceled and permanently retired when redeemed.

(Dec. 23, 1913, ch. 6, § 18, 38 Stat. 268.)

CODIFICATION

Section is comprised of fourth par. of section 18 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 18, see Codification note under section 441 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

§ 444. Issuance of circulating notes to reserve banks purchasing bonds

The Federal reserve banks purchasing such bonds shall be permitted to take out an amount of circulating notes equal to the par value of such bonds.

(Dec. 23, 1913, ch. 6, § 18, 38 Stat. 268.)

CODIFICATION

Section is comprised of fifth par. of section 18 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 18, see Codification note under section 441 of this title.

§ 445. Repealed. June 12, 1945, ch. 186, § 3, 59 Stat. 238

Section, acts Dec. 23, 1913, ch. 6, § 18, 38 Stat. 268; Mar. 9, 1933, ch. 1, title IV, § 401, 48 Stat. 6, provided for the issuance of circulating notes to Federal Reserve banks. Act June 12, 1945, ch. 186, § 3, 59 Stat. 238, provided that all power and authority with respect to the issuance of circulating notes, known as Federal Reserve bank notes, pursuant to this section shall cease and terminate on June 12, 1945.

§ 446. Exchange by reserve banks of bonds bearing circulating privilege for those without such privilege

Upon application of any Federal reserve bank, approved by the Board of Governors of the Federal Reserve System, the Secretary of the Treasury may issue, in exchange for United States 2 per centum gold bonds bearing the circulation privilege, but against which no circulation is outstanding, one-year gold notes of the United States without the circulation privilege, to an amount not to exceed one-half of the 2 per centum bonds so tendered for exchange, and thirty-year 3 per centum gold bonds without the circulation privilege for the remainder of the 2 per centum bonds so tendered: *Provided,* That at the time of such exchange the Federal reserve bank obtaining such one-year gold notes shall enter into an obligation with the Secretary of the Treasury binding itself to purchase from the United States for gold at the maturity of such one-year notes, an amount equal to those delivered in exchange for such bonds, if so requested by the Secretary, and at each maturity of one-year notes so purchased by such Federal reserve bank, to purchase from the United States such an amount of one-year notes as the Secretary may tender to such bank, not to exceed the amount issued to such bank in the first instance, in exchange for the 2 per centum United States gold bonds; said obligation to purchase at maturity such notes shall continue in force for a period not to exceed thirty years.

(Dec. 23, 1913, ch. 6, § 18, 38 Stat. 268; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is comprised of seventh par. of section 18 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 18, see Codification note under section 441 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Federal Reserve notes and circulating notes of Federal Reserve banks and national banking associations made legal tender, see section 392 of Title 31, Money and Finance.

Provisions for payment of obligations in gold declared against public policy, see section 463 of Title 31.

§ 447. Form of bonds; conditions of issuance

For the purpose of making the exchange herein provided for, the Secretary of the Treasury is authorized to issue at par Treasury notes in coupon or registered form as he may prescribe in denominations of $100, or any mul-

tiple thereof, bearing interest at the rate of 3 per centum per annum, payable quarterly, such Treasury notes to be payable not more than one year from the date of their issue in gold coin of the present standard value, and to be exempt as to principal and interest from the payment of all taxes and duties of the United States except as provided by this chapter and section 531 of this title, as well as from taxes in any form by or under State, municipal, or local authorities. And for the same purpose the Secretary is authorized and empowered to issue United States gold bonds at par, bearing 3 per centum interest payable thirty years from date of issue, such bonds to be of the same general tenor and effect and to be issued under the same general terms and conditions as the United States 3 per centum bonds without the circulation privilege now issued and outstanding.

(Dec. 23, 1913, ch. 6, § 18, 38 Stat. 268.)

REFERENCES IN TEXT

Phrase "herein provided for", referred to in text, probably means as provided for in section 16 of act Dec. 23, 1913, which is classified to this subchapter.

In the original, "this chapter and section 531 of this title" read "this Act", meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of that act, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of eighth par. of section 18 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 18, see Codification note under section 441 of this title.

CROSS REFERENCES

Payment of obligations in gold prohibited, see section 463 of Title 31, Money and Finance.

§ 448. Exchange of one-year gold notes for 3 per centum gold bonds

Upon application of any Federal reserve bank, approved by the Board of Governors of the Federal Reserve System, the Secretary may issue at par such 3 per centum bonds in exchange for the one-year gold notes herein provided for.

(Dec. 23, 1913, ch. 6, § 18, 38 Stat. 268; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Phrase "herein provided for", referred to in text, probably means as provided for in section 16 of act Dec. 23, 1913, which is classified to this subchapter.

CODIFICATION

Section is comprised of ninth par. of section 18 of act Dec. 23, 1913. For classification to this title of other paragraphs of section 18, see Codification note under section 441 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SUBCHAPTER XIV—BANK RESERVES

§ 461. Definitions, payment of interest, and regulations; reserves against deposits; form of reserves

(a) The Board is authorized for the purposes of this section to define the terms used in this section to determine what shall be deemed a payment of interest, to determine what types of obligations, whether issued directly by a member bank or indirectly by an affiliate of a member bank or by other means, and, regardless of the use of the proceeds, shall be deemed a deposit, and to prescribe such regulations as it may deem necessary to effectuate the purposes of this section and to prevent evasions thereof.

(b) Every member bank shall maintain reserves against its deposits in such ratios as shall be determined by the affirmative vote of not less than four members of the Board within the following limitations:

(1) In the case of any member bank in a reserve city, the minimum reserve ratio for any demand deposit shall be not less than 10 per centum and not more than 22 per centum, except that the Board, either in individual cases or by regulation, on such basis as it may deem reasonable and appropriate in view of the character of business transacted by such bank, may make applicable the reserve ratios prescribed for banks not in reserve cities.

(2) In the case of any member bank not in a reserve city, the minimum reserve ratio for any demand deposit shall be not less than 7 per centum and not more than 14 per centum.

(3) In the case of any deposit other than a demand deposit, the minimum reserve ratio shall be not less than 3 per centum and not more than 10 per centum.

The Board may, however, prescribe any reserve ratio, not more than 22 per centum, with respect to any indebtedness of a member bank that arises out of a transaction in the ordinary course of its banking business with respect to either funds received or credit extended by such bank to a bank organized under the law of a foreign country or a dependency or insular possession of the United States.

(c) Reserves held by any member bank to meet the requirements imposed pursuant to subsection (b) of this section shall be in the form of—

(1) balances maintained for such purpose by such bank in the Federal Reserve bank of which it is a member, and

(2) the currency and coin held by such bank, or such part thereof as the Board may by regulation prescribe.

(Dec. 23, 1913, ch. 6, § 19(a)-(c), 38 Stat. 270; June 21, 1917, ch. 32, § 10, 40 Stat. 239; Aug. 23, 1935, ch. 614, § 324(a), 49 Stat. 714; renumbered and amended Sept. 21, 1966, Pub. L. 89-597, § 2(a), 80 Stat. 823; Dec. 23, 1969, Pub. L. 91-151, title I, §§ 4(a), 5, 83 Stat. 374, 375; Oct. 29, 1974, Pub. L. 93-501, title I, § 101(a), 88 Stat. 1557.)

REFERENCES IN TEXT

This section, referred to in subsec. (a), means section 19 of act Dec. 23, 1913, as amended, which is classified to sections 142, 371a, 371b, 371b-1, 374, 374a, 461, and 463 to 466 of this title.

CODIFICATION

Section is comprised of subsecs. (a) to (c), formerly first six pars., of section 19 of act Dec. 23, 1913 (such first, second through fifth, and sixth pars. formerly classified to sections 461, 462, and 462b of this title, respectively), as redesignated by Pub. L. 89-597. For

credits prior to enactment of Pub. L. 89-597 on Sept. 21, 1966, see notes under former sections 462 and 462b of this title.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-501 substituted "and, regardless of the use of the proceeds, shall be deemed a deposit" for "shall be deemed a deposit".

1969—Subsec. (a). Pub. L. 91-151, § 4(a), authorized the Board to determine the type of obligations that would be deemed deposits.

Subsec. (b). Pub. L. 91-151, § 5, authorized the Board to prescribe the ratio of the indebtedness of member banks to foreign banks, up to a maximum of 22 percent.

1966—Pub. L. 89-597 designated first par. provisions of section 19 of act Dec. 23, 1913, as subsec. (a), substituted therein a general provision authorizing the Board to define terms used in sections 142, 371a, 371b, 374, 374a, and 463 to 466 of this title for former provisions defining the terms "demand deposits", "gross demand deposits", "deposits payable on demand", "time deposits", "savings deposits", and "trust funds", eliminated therefrom the inclusion of "savings deposits" in term "time deposits" in regard to reserve requirements of member banks, and added subsecs. (b) and (c) to such section 19, superseding the second through sixth paras., which authorize the Board to fix reserve requirements against time deposits between the limits of 3 and 10 percent, in lieu of prior limits of 3 and 6 percent, and omitted provision for modification of reserve requirements to prevent injurious credit to expansion or contraction.

1935—Act Aug. 23, 1935, abrogated the statutory construction of demand deposits.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 101(b) of Pub. L. 93-501 provided that: "The amendment made by subsection (a) [amending subsec. (a) of this section] shall not apply to any bank holding company which has filed prior to the date of enactment of this Act [Oct. 29, 1974], an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act [section 1843 of this title], or to any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933 [section 77c(a)(3) of Title 15]."

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Section 7 of Pub. L. 89-597, as amended by Pub. L. 90-87, Sept. 21, 1967, 81 Stat. 226; Pub. L. 90-505, Sept. 21, 1968, 82 Stat. 856; Pub. L. 91-71, Sept. 22, 1969, 83 Stat. 115; Pub. L. 91-151, title I, § 1, Dec. 23, 1969, 83 Stat. 371; Pub. L. 92-8, § 1, Mar. 31, 1971, 85 Stat. 13; Pub. L. 92-15, § 1, May 18, 1971, 85 Stat. 38; Pub. L. 93-63, July 6, 1973, 87 Stat. 147; Pub. L. 93-100, § 1, Aug. 16, 1973, 87 Stat. 342; Pub. L. 93-495, title I, § 107, Oct. 28, 1974, 88 Stat. 1505; Pub. L. 94-200, title I, § 101, Dec. 31, 1975, 89 Stat. 1124, provided that:

"Effective March 1, 1977:

"(1) So much of section 19(j) of the Federal Reserve Act (12 U.S.C. 371(b)) [section 371b of this title] as precedes the third sentence thereof is amended to read as it would without the amendment made by section 2(c) of this Act [which made amendments to such section 371b of this title described in 1966 Amendment note set out thereunder].

"(2) The second and third sentences of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) are amended to read as they would without the amendment made by section 3 of this Act [which made amendments to such section 1828 (g) of this title described in 1966 Amendment note thereunder].

"(3) The last three sentences of section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) [which made additions to section 1828(g) of this title described in 1969 Amendment note set out thereunder] are repealed.

"(4) Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is repealed."

ELIMINATION OR REDUCTION OF INTEREST RATE DIFFERENTIAL BETWEEN SAVINGS BANKS AND SAVINGS AND LOAN, BUILDING AND LOAN, OR HOMESTEAD ASSOCIATIONS

Pub. L. 94-200, title I, § 102, Dec. 31, 1975, 89 Stat. 1124, provided that:

"(a) An interest rate differential for any category of deposits or accounts which is in effect on December 10, 1975, between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(j)) may not be eliminated or reduced unless—

"(A) written notification is given by the Board of Governors of the Federal Reserve System to the Congress; and

"(B) the House of Representatives and the Senate approve, by concurrent resolution, the proposed elimination or reduction of the interest rate differential.

"(b) In the case of the elimination or reduction of any interest rate differential under subsection (a) with respect to any category of deposits or accounts between (1) any bank (other than a savings bank) the deposits of which are insured by the Federal Deposit Insurance Corporation and (2) any savings and loan, building and loan, or homestead association (including cooperative banks) the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation or any mutual savings bank as defined in section 3(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f)), the maximum rate of interest which shall be established for such category of deposits for banks (other than savings banks) the deposits of which are insured by the Federal Deposit Insurance Corporation shall be equal to the highest rate of interest which savings and loan associations the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation were permitted to charge for such category of deposits immediately prior to the elimination or reduction of such interest rate differential."

INTEREST RATES: CONTROLS

Section 1 of Pub. L. 89-597 provided that: "The Secretary of the Treasury, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, in implementation of their respective powers under existing law and this Act [enacting section 1425b of this title, amending sections 355, 371b, 461, and 1828, of this title and section 771 of Title 31, repealing section 462a-1 of this title and enacting provisions set out as notes under this section], shall take action to bring about the reduction of interest rates to the maximum extent feasible in the light of prevailing money market and general economic conditions."

Effective and termination dates of control of interest rates provisions, see Effective and Termination Dates of 1966 Amendment note under this section.

OUTSTANDING RATE REGULATIONS

Section 5 of Pub. L. 89-597 provided that: "Any regulation prescribed by the Board of Governors of the Federal Reserve System or the Board of Directors of the Federal Deposit Insurance Corporation with respect to the payment of deposits and interest thereon by member banks or insured nonmember banks which is in effect when this Act is enacted [Sept. 21, 1966] shall continue in effect unless and until it is modified or rescinded after consultation with the Board of Di-

rectors or the Board of Governors, as the case may be, and the Federal Home Loan Bank Board."

Effective and termination dates of existing rate regulations, see Effective and Termination Dates of 1966 Amendment note under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§§ 462, 462a. Omitted

CODIFICATION

Section 462, acts Dec. 23, 1913, ch. 6, § 19 (par.), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, § 10, 40 Stat. 239; Sept. 26, 1918, ch. 177, § 4, 40 Stat. 970; July 28, 1959, Pub. L. 86-114, §§ 1, 2(a), 3(b)(7) to (9), 73 Stat. 863, which related to balances member banks were required to keep in reserve banks, was omitted from the Code in view of the striking out of second through fifth pars. of section 19 of act Dec. 23, 1913 (formerly comprising this section), and incorporation of provisions of such paragraphs in subsecs. (a) to (c) of section 19 of act Dec. 23, 1913 by section 2(a) of Pub. L. 89-597, Sept. 21, 1966, 80 Stat. 823, now classified to section 461 of this title.

Section 462a, act Apr. 24, 1917, ch. 4, § 7, 40 Stat. 37, which related to reserves against United States deposits, was omitted as covered by former section 462a-1 of this title. See section 461 of this title.

§ 462a-1. Repealed. Pub. L. 89-597, § 2(d), Sept. 21, 1966, 80 Stat. 824

Section, act Dec. 23, 1913, ch. 6, § 19 (par.), as added Aug. 23, 1935, ch. 614, § 324(d), 49 Stat. 715, and amended Apr. 13, 1943, ch. 62, § 2, 57 Stat. 65, prescribed maintenance of same bank reserves against deposits by United States as were required against other deposits.

§§ 462b, 462c. Omitted

CODIFICATION

Section 462b, act Dec. 23, 1913, ch. 6, § 19 (par.), as added May 12, 1933, ch. 25, title III, § 46, 48 Stat. 54, and amended Aug. 23, 1935, ch. 614, § 207, 49 Stat. 706; July 7, 1942, ch. 488, § 2, 56 Stat. 648; July 28, 1959, Pub. L. 86-114, §§ 2(b), 3(b)(10), (11), 73 Stat. 263, related to change of requirements as to reserves in order to prevent credit expansion or contraction, and was omitted from the Code in view of the striking out of the sixth par. of section 19 of act Dec. 23, 1913 (formerly comprising this section), and incorporation of its provisions in subsecs. (a) to (c) of section 19 of act Dec. 23, 1913 by section 2(a) of Pub. L. 89-597, Sept. 21, 1966, 80 Stat. 823, now classified to section 461 of this title.

Section 462c, act Dec. 23, 1913, ch. 6, § 19 (par.), as added Aug. 16, 1948, ch. 836, § 2, 62 Stat. 1291, related to change of requirements as to reserves to check credit expansion, and was omitted since it terminated on June 30, 1949.

§ 463. Limitation on amount of balance with State bank or trust company

No member bank shall keep on deposit with any State bank or trust company which is not a member bank a sum in excess of 10 per centum of its own paid-up capital and surplus.

(Dec. 23, 1913, ch. 6, § 19, 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, § 10, 40 Stat. 239.)

CODIFICATION

Section is comprised of part of subsec. (e), formerly eighth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597, § 2(b), Sept. 21, 1966, 80 Stat. 824. Remainder of subsec. (e) of such section 19 is classified to section 374 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 464. Checking against and withdrawal of reserve balance

The required balance carried by a member bank with a Federal Reserve Bank may, under the regulations and subject to such penalties as may be prescribed by the Board of Governors of the Federal Reserve System, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities.

(Dec. 23, 1913, ch. 6, § 19(f), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, § 10, 40 Stat. 239; Aug. 23, 1935, ch. 614, § 203 (a), 49 Stat. 704; July 7, 1942, ch. 488, § 3, 56 Stat. 648; renumbered Sept. 21, 1966, Pub. L. 89-597, § 2(b), 80 Stat. 824.)

CODIFICATION

Section is comprised of subsec. (f), formerly ninth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

AMENDMENTS

1942—Act July 7, 1942, struck out a former proviso which prohibited making new loans or paying dividends until required balance was restored.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 465. Basis for ascertaining deposits against which required balance is determined

In estimating the reserve balances required by this chapter, member banks may deduct from the amount of their gross demand deposits the amounts of balances due from other banks (except Federal Reserve banks and foreign banks) and cash items in process of collection payable immediately upon presentation in the United States, within the meaning of these terms as defined by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 19(g), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, § 10, 40 Stat. 239; Aug. 23, 1935, ch. 614, § 324 (b), 49 Stat. 714; renumbered Sept. 21, 1966, Pub. L. 89-597, § 2(b), 80 Stat. 824.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act", meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of subsec. (g), formerly tenth par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

AMENDMENTS

1935—Act Aug. 23, 1935, changed the method of estimating reserve balances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 466. Reserves of banks in dependencies or insular possessions

National banks, or banks organized under local laws, located in a dependency or insular possession or any part of the United States outside the continental United States, may remain nonmember banks, and shall in that event maintain reserves and comply with all the conditions now provided by law regulating them; or said banks may with the consent of the Board of Governors of the Federal Reserve System, become member banks of any one of the reserve districts, and shall in that event take stock, maintain reserves, and be subject to all the other provisions of this chapter.

(Dec. 23, 1913, ch. 6, § 19(h), 38 Stat. 270; Aug. 15, 1914, ch. 252, 38 Stat. 691; June 21, 1917, ch. 32, § 10, 40 Stat. 239; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; June 25, 1959, Pub. L. 86-70, § 8(b), 73 Stat. 142; renumbered Sept. 21, 1966, Pub. L. 89-597, § 2(b), 80 Stat. 824.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act," meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this code, see Distribution note under section 226 of this title.

CODIFICATION

Section is comprised of subsec. (h), formerly eleventh par., of section 19 of act Dec. 23, 1913, as redesignated by Pub. L. 89-597.

AMENDMENTS

1959—Pub. L. 86-70 eliminated words "in Alaska or" which preceded "in a dependency."

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Reserves of national banks located in Alaska and insular possessions, see also section 143 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1424, 1828 of this title.

§ 467. Deposits of gold coin, gold certificates, and Special Drawing Right certificates with United States Treasurer

The Secretary of the Treasury is authorized and directed to receive deposits of gold or of gold certificates or of Special Drawing Right certificates with the Treasurer or any designated depositary of the United States when tendered by any Federal Reserve bank or Federal Reserve agent for credit to its or his account with the Board of Governors of the Federal Reserve System. The Secretary shall prescribe by regulation the form of receipt to be issued by the Treasurer or designated depositary to the Federal Reserve bank or Federal Reserve agent making the deposit, and a duplicate of such receipt shall be delivered to the Board of Governors of the Federal Reserve System by the Treasury at Washington upon proper advices from any designated depositary that such deposit has been made. Deposits so made shall be held subject to the orders of the Board of Governors of the Federal Reserve System and deposits of gold or gold certificates shall be payable in gold certificates, and deposits of Special Drawing Right certificates shall be payable in Special Drawing Right certificates, on the order of the Board of Governors of the Federal Reserve System to any Federal Reserve bank or Federal Reserve agent at the Treasury or at the subtreasury of the United States nearest the place of business of such Federal Reserve bank or such Federal Reserve agent. The order used by the Board of Governors of the Federal Reserve System in making such payments shall be signed by the chairman or vice chairman, or such other officers or members as the Board may by regulation prescribe. The form of such order shall be approved by the Secretary of the Treasury.

The expenses necessarily incurred in carrying out these provisions, including the cost of the certificates or receipts issued for deposits received, and all expenses incident to the handling of such deposits shall be paid by the Board of Governors of the Federal Reserve System and included in its assessments against the several Federal Reserve banks.

Nothing in this section shall be construed as amending section 429 of title 31, nor shall the provisions of this section be construed to apply to the deposits made or to the receipts or certificates issued under that section.

(Dec. 23, 1913, ch. 6, § 16 (pars.), as added June 21, 1917, ch. 32, § 8, 40 Stat. 238, and amended May 29, 1920, ch. 214, § 1, 41 Stat. 654; Jan. 30, 1934, ch. 6, § 2(b)(7), (8), 48 Stat. 339; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; Mar. 3, 1965, Pub. L. 89-3, § 2, 79 Stat. 5; Mar. 18, 1968, Pub. L. 90-269, § 7, 82 Stat. 50; June 19, 1968, Pub. L. 90-349, § 5(d), 82 Stat. 189.)

REFERENCES IN TEXT

Words "this section", referred to in last par., mean section 16 of act Dec. 23, 1913. For classification to this title of section 16, see Codification note under section 411 of this title.

CODIFICATION

Section is comprised of fifteenth to eighteenth pars. of section 16 of act Dec. 23, 1913, as added June 21, 1917. For classification to this title of other paragraphs of section 16, see Codification note under section 411 of this title.

AMENDMENTS

1968—Pub. L. 90-349 inserted references to Special Drawing Right certificates so as to allow them to be deposited with the Treasury in the same manner as gold certificates.

Pub. L. 90-269 repealed the third par. (eighteenth par. of section 16 of Act Dec. 23, 1913) which provided that deposits standing to the credit of any Federal Reserve bank with the Board of Governors shall, at the option of said bank, be counted as part of the lawful reserve which it is required to maintain against outstanding Federal Reserve notes.

1965—Pub. L. 89-3 removed from the list of purposes for which deposits made under this section could be

counted, the reference to the reserve in gold certificates which each Federal Reserve bank was required to maintain against deposit liabilities.

1934—Act Jan. 30, 1934, affected third sentence in first par. and third par.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note set out under section 121 of this title.

CROSS REFERENCES

Gold coinage discontinued, see section 315b of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 348 of this title; title 31 sections 440, 441, 444, 445, 446, 822b.

SUBCHAPTER XV—BANK EXAMINATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 10, 181 of this title.

§ 481. Appointment of examiners; examination of member banks, State banks, and trust companies; reports

The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall appoint examiners who shall examine every national bank twice in each calendar year, but the Comptroller, in the exercise of his discretion, may waive one such examination or cause such examinations to be made more frequently if considered necessary. The waiver of one such examination as above provided shall not be exercised more frequently than once during any two-year period. The examiner making the examination of any national bank shall have power to make a thorough examination of all the affairs of the bank and in doing so he shall have power to administer oaths and to examine any of the officers and agents thereof under oath and shall make a full and detailed report of the condition of said bank to the Comptroller of the Currency: *Provided,* That in making the examination of any national bank the examiners shall include such an examination of the affairs of all its affiliates other than member banks as shall be necessary to disclose fully the relations between such bank and such affiliates and the effect of such relations upon the affairs of such bank; and in the event of the refusal to give any information required in the course of the examination of any such affiliate, or in the event of the refusal to permit such examination, all the rights, privileges, and franchises of the bank shall be subject to forfeiture in accordance with sections 141, 222 to 225, 281 to 283, 285, 286, 501a and 502 of this title. The Comptroller of the Currency shall have power, and he is authorized, to publish the report of his examination of any national banking association or affiliate which shall not within one hundred and twenty days after notification of the recommendations or suggestions of the Comptroller, based on said examination, have complied with the same to his satisfaction. Ninety days' notice prior to such publicity shall be given to the bank or affiliate.

The examiner making the examination of any affiliate of a national bank shall have power to make a thorough examination of all the affairs of the affiliate, and in doing so he shall have power to administer oaths and to examine any of the officers, directors, employees, and agents thereof under oath and to make a report of his findings to the Comptroller of the Currency. The expense of examinations of such affiliates may be assessed by the Comptroller of the Currency upon the affiliates examined in proportion to assets or resources held by the affiliates upon the dates of examination of the various affiliates. If any such affiliate shall refuse to pay such expenses or shall fail to do so within sixty days after the date of such assessment, then such expenses may be assessed against the affiliated national bank and, when so assessed, shall be paid by such national bank: *Provided, however,* That, if the affiliation is with two or more national banks, such expenses may be assessed against, and collected from, any or all of such national banks in such proportions as the Comptroller of the Currency may prescribe. The examiners and assistant examiners making the examinations of national banking associations and affiliates thereof herein provided for and the chief examiners, reviewing examiners and other persons whose services may be required in connection with such examinations or the reports thereof, shall be employed by the Comptroller of the Currency with the approval of the Secretary of the Treasury; the employment and compensation of examiners, chief examiners, reviewing examiners, assistant examiners, and of the other employees of the office of the Comptroller of the Currency whose compensation is and shall be paid from assessments on banks or affiliates thereof shall be without regard to the provisions of other laws applicable to officers or employees of the United States. The funds derived from such assessments may be deposited by the Comptroller of the Currency in accordance with the provisions of section 192 of this title and shall not be construed to be Government funds or appropriated monies; and the Comptroller of the Currency is authorized and empowered to prescribe regulations governing the computation and assessment of the expenses of examinations herein provided for and the collection of such assessments from the banks and/or affiliates examined. If any affiliate of a national bank shall refuse to permit an examiner to make an examination of the affiliate or shall refuse to give any information required in the course of any such examination, the national bank with which it is affiliated shall be subject to a penalty of not more than $100 for each day that any such refusal shall continue. Such penalty may be assessed by the Comptroller of the Currency and collected in the same manner as expenses of examinations.

(R.S. § 5240; Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, § 21, 38 Stat. 271; June 16, 1933; ch. 89, § 28(a), (b), 48 Stat. 192; Aug. 23, 1935, ch. 614, §§ 203(a), 343, 49 Stat. 704, 722; June 30, 1948, ch. 762, § 1, 62 Stat. 1163; Apr. 30, 1956, ch. 228, § 1, 70 Stat. 124.)

AMENDMENTS

1956—Act Apr. 30, 1956, allowed Comptroller to waive 1 of the 2 examinations required each year, but not more than one waiver every two years.

1948—Act June 30, 1948, struck out in first sentence after the first proviso of the second paragraph the words ", including retirement annuities to be fixed by the Comptroller of the Currency,".

1935—Act Aug. 23, 1935, § 343, substituted in the first sentence after the third proviso "including retirement annuities to be fixed by the Comptroller of the Currency, is and shall be" for "is".

1933—Act June 16, 1933, added second proviso in first par. and second par.

CHANGE OF NAME

Section 203(a) of act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EFFECTIVE DATE OF 1948 AMENDMENT

Effective date of amendment by act June 30, 1948, was first day of first pay period beginning at least 30 days after June 30, 1948.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5240 is derived from act June 3, 1864, ch. 106, § 54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Exemption of certain banks from examination under this section, see section 330 of this title.

Voluntary dissolution, expense of examination, see section 181 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 330, 482 of this title; title 5 section 5363.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-308 of the District of Columbia Code.

§ 482. Salaries of examiners; expense of examinations

The Comptroller of the Currency shall fix the salaries of all bank examiners and make report thereof to Congress. The expense of the examinations provided for in section 481 of this title shall be assessed by the Comptroller of the Currency upon national banks in proportion to their assets or resources. The assessments may be made more frequently than annually at the discretion of the Comptroller of the Currency. The annual rate of such assessment shall be the same for all national banks, except that banks examined more frequently than twice in one calendar year shall, in addition, be assessed the expense of these additional examinations.

In addition to the expense of examination to be assessed by the Comptroller of the Currency as heretofore provided, all national banks exercising fiduciary powers and all banks or trust companies in the District of Columbia exercising fiduciary powers shall be assessed by the Comptroller of the Currency for the examination of their fiduciary activities a fee adequate to cover the expense thereof.

(R.S. § 5240; Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, § 21, 38 Stat. 271; July 2, 1932, ch. 392, 47 Stat. 568; Aug. 23, 1935, ch. 614, § 343, 49 Stat. 722; Apr. 30, 1956, ch. 228, §§ 2, 3, 70 Stat. 124.)

CODIFICATION

In the original, "provided for in section 481 of this title" reads "herein provided for".

AMENDMENTS

1956—Act Apr. 30, 1956, provided that assessments may be made more frequently than annually and the annual rate of such assessment shall be the same for all national banks except that banks examined more than twice in one year shall be assessed the expense of the additional examinations, and based additional charges for examining all national banks exercising fiduciary powers and all banks or trust companies in the District of Columbia exercising fiduciary powers on the cost of making the examination rather than the amount of trust assets under administration.

1935—Act Aug. 23, 1935, substituted in first sentence "The Comptroller of the Currency" for "The Federal Reserve Board, upon the recommendation of the Comptroller of the Currency".

1932—Act July 2, 1932, added last par.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5240 is derived from act June 3, 1864, ch. 106, § 54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Exemption of certain banks from provisions of this section, see section 330 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 330 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 26-102, 26-308 of the District of Columbia Code.

§ 483. Special examination of member banks; information of condition furnished to Board of Governors of the Federal Reserve System

In addition to the examinations made and conducted by the Comptroller of the Currency, every Federal reserve bank may, with the approval of the Federal reserve agent or the Board of Governors of the Federal Reserve System, provide for special examination of member banks within its district. The expense of such examinations may, in the discretion of the Board of Governors of the Federal Reserve System, be assessed against the banks examined, and, when so assessed, shall be paid by the banks examined. Such examinations shall be so conducted as to inform the Federal reserve bank of the condition of its member banks and of the lines of credit which are being extended by them. Every Federal reserve bank shall at all times furnish to the Board of Governors of the Federal Reserve System such information as may be demanded concerning the condition of any member bank within the district of the said Federal reserve bank.

(R.S. § 5240; Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, § 21, 38 Stat. 271; June 26, 1930, ch. 611, § 2, 46 Stat. 814; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

AMENDMENTS

1930—Act June 26, 1930, substituted second sentence "The expense of such examinations may, in the discretion of the Federal Reserve Board, be assessed against the banks examined, and, when so assessed, shall be paid by the banks examined." for "The expense of such examinations shall be borne by the bank examined".

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5240 is derived from act June 3, 1864, ch. 106, § 54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-308 of the District of Columbia Code.

§ 484. Limitation on visitorial powers

No bank shall be subject to any visitorial powers other than such as are authorized by law, or vested in the courts of justice or such as shall be or shall have been exercised or directed by Congress, or by either House thereof or by any committee of Congress or of either House duly authorized.

(R.S. § 5240; Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, § 21, 38 Stat. 271.)

PRIOR PROVISIONS

R.S. § 5240 is derived from act June 3, 1864, ch. 106, § 54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 10, 181 of this title; title 26 section 3305.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-308 of the District of Columbia Code.

§ 485. Examination of Federal reserve banks

The Board of Governors of the Federal Reserve System shall, at least once each year, order an examination of each Federal reserve bank, and upon joint application of ten member banks the Board of Governors of the Federal Reserve System shall order a special examination and report of the condition of any Federal reserve bank.

(R.S. § 5240; Feb. 19, 1875, ch. 89, 18 Stat. 329; Dec. 23, 1913, ch. 6, § 21, 38 Stat. 271; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

PRIOR PROVISIONS

R.S. § 5240 is derived from act June 3, 1864, ch. 106, § 54, 13 Stat. 116, which was part of the National Bank Act. See section 38 of this title.

CROSS REFERENCES

Exemption of certain banks from examination, see section 330 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-308 of the District of Columbia Code.

§ 486. Waiver of requirements as to reports from or examinations of affiliates

Whenever member banks are required to obtain reports from affiliates, or whenever affiliates of member banks are required to submit to examination, the Board of Governors of the Federal Reserve System or the Comptroller of the Currency, as the case may be, may waive such requirements with respect to any such report or examination of any affiliate if in the judgment of the said Board of Comptroller, respectively, such report or examination is not necessary to disclose fully the relations between such affiliate and such bank and the effect thereof upon the affairs of such bank.

(Dec. 23, 1913, ch. 6, § 21 (par.), as added Aug. 23, 1935, ch. 614, § 325, 49 Stat. 715.)

CODIFICATION

This section was not enacted as a part of R.S. § 5240 which comprises this subchapter.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

Act Dec. 23, 1913 is derived from R.S. § 5240.

SUBCHAPTER XVI—CIVIL LIABILITY OF FEDERAL RESERVE AND MEMBER BANKS, SHAREHOLDERS, AND OFFICERS

§ 501. Liability of Federal reserve or member bank for certifying check when amount of deposit was inadequate

It shall be unlawful for any officer, director, agent, or employee of any Federal reserve bank, or any member bank as defined in this chapter, to certify any check drawn upon such Federal reserve bank or member bank unless the person, firm, or corporation drawing the check has on deposit with such Federal reserve bank or member bank, at the time such check is certified, an amount of money not less than the amount specified in such check. Any check so certified by a duly authorized officer, director, agent, or employee shall be a good and valid obligation against such Federal reserve bank or member bank; but the act of any officer, director, agent, or employee of any such Federal re-

serve bank or member bank in violation of this section shall, in the discretion of the Board of Governors of the Federal Reserve System, subject such Federal reserve bank to the penalties imposed by subsection (h) of section 248 of this title, and shall subject such member banks, if a national bank, to the liability and proceedings on the part of the Comptroller of the Currency provided for in section 192 of this title, and shall, in the discretion of the Board of Governors of the Federal Reserve System, subject any other member bank to the penalties imposed by subchapter VIII of chapter 3 of this title for the violation of any of the provisions of this chapter.

(R.S. § 5208; Sept. 26, 1918, ch. 177, § 7, 40 Stat. 972; Feb. 25, 1927, ch. 191, § 12, 44 Stat. 1231; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

In the original "this chapter" reads "the act of December 23, 1913, known as the Federal Reserve Act," and "said act," respectively. For distribution of Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

Subchapter VIII of chapter 3 of this title, referred to in text, in the original read "section nine of said Federal reserve Act". Section 9 is classified to sections 321 to 338 of this title.

CODIFICATION

The last sentence of R.S. § 5208, as amended, which provided penalties for certification of certain checks, was repealed by section 21 of act June 25, 1948, ch. 645, 62 Stat. 862, 865, and the provisions thereof were reenacted as section 1004 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1927—Act Feb. 25, 1927, substituted in the last sentence after "regularly" the words "deposited in the bank of the drawer thereof".

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

PRIOR PROVISIONS

R.S. § 5208 is derived from act Mar. 3, 1869, ch. 135, 15 Stat. 335.

CROSS REFERENCES

Penalty for unlawful certification of checks, see section 1004 of Title 18, Crimes and Criminal Procedure.

§ 501a. Forfeiture of franchise of national banks for failure to comply with provisions of this chapter

Should any national banking association in the United States now organized fail within one year after December 23, 1913, to become a member bank or fail to comply with any of the provisions of this chapter applicable thereto, all of the rights, privileges, and franchises of such association granted to it under the National Bank Act, or under the provisions of this chapter, shall be thereby forfeited. Any noncompliance with or violation of this chapter shall, however, be determined and adjudged by any court of the United States of competent jurisdiction in a suit brought for that purpose in the district or territory in which such bank is located, under direction of the Board of Governors of the Federal Reserve System by the Comptroller of the Currency in his own name before the association shall be declared dissolved. In cases of such noncompliance or violation, other than the failure to become a member bank under the provisions of this chapter, every director who participated in or assented to the same shall be held liable in his personal or individual capacity for all damages which said bank, its shareholders, or any other person shall have sustained in consequence of such violation.

Such dissolution shall not take away or impair any remedy against such corporation, its stockholders, or officers, for any liability or penalty which shall have been previously incurred.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 251; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

For classification of the National Bank Act, referred to in the text, see References in Text note set out under section 38 of this title.

In the original "this chapter" reads "this Act", meaning the Federal Reserve Act. For distribution of the Federal Reserve Act in this Code, see Distribution note set out under section 226 of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 222, 377, 481, 522, 1817 of this title.

§ 502. Liability of shareholders of reserve banks on contracts, etc.

The shareholders of every Federal reserve bank shall be held individually responsible equally and ratably, and not one for another, for all contracts, debts, and engagements of such bank to the extent of the amount of their subscriptions to such stock at the par value thereof in addition to the amount subscribed, whether such subscriptions have been paid up in whole or in part under the provisions of this chapter.

(Dec. 23, 1913, ch. 6, § 2, 38 Stat. 252.)

REFERENCES IN TEXT

In the original "this chapter" reads "this Act", meaning the Federal Reserve Act, act Dec. 23, 1913. For distribution of the Federal Reserve Act in this Code, see Distribution note under section 226 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 377, 481 of this title.

§ 503. Liability of directors and officers of member banks

If the directors or officers of any member bank shall knowingly violate or permit any of the agents, officers, or directors of any member bank to violate any of the provisions of sections 375, 375a, and 376 of this title or regulations of the board made under authority thereof, or any of the provisions of sections 217, 218, 219, 220, 655, 1005, 1014, 1906, or 1909 of title 18, every director and officer participating in or assenting to such violation shall be held liable in his personal and individual capacity for all damages which the member bank, its shareholders, or any other persons shall have sustained in consequence of such violation.

(Dec. 23, 1913, ch. 6, § 22(f), as added Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970, and amended Sept. 3, 1954, ch. 1263, § 28, 68 Stat. 1236.)

REFERENCES IN TEXT

Sections 217, 218, 219, and 220 of title 18, referred to in text, were redesignated as sections 212, 213, 214, and 215 of title 18 by act Oct. 23, 1962, Pub. L. 87-849, § 1(d), 76 Stat. 1125.

CODIFICATION

In the original "sections 375, 375a, and 376 of this title" read "this section", meaning section 22 of act Dec. 23, 1913, which was also classified to sections 593 to 599 of this title. Such sections were repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948, and their provisions covered by sections 217, 218, 219, 220, 655, 1005, 1014, 1906, and 1909 of Title 18, Crimes and Criminal Procedure. Reference to such repealed sections was omitted from the text in view of act Sept. 3, 1954, which corrected the text by incorporating therein the reference to the sections of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

1954—Act Sept. 3, 1954, inserted "or any of the provisions of sections 217, 218, 219, 220, 655, 1005, 1014, 1906, or 1909 of title 18,".

SUBCHAPTER XVII—RESERVE-BANK BRANCHES

§ 521. Reserve-bank branches; establishment; directors; discontinuance of branches; approval for erection of branch bank building

The Board of Governors of the Federal Reserve System may permit or require any Federal reserve bank to establish branch banks within the Federal reserve district in which it is located or within the district of any Federal reserve bank which may have been suspended. Such branches, subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe, shall be operated under the supervision of a board of directors to consist of not more than seven nor less than three directors, of whom a majority of one shall be appointed by the Federal reserve bank of the district, and the remaining directors by the Board of Governors of the Federal Reserve System. Directors of branch banks shall hold office during the pleasure of the Board of Governors of the Federal Reserve System.

The Board of Governors of the Federal Reserve System may at any time require any Federal reserve bank to discontinue any branch of such Federal reserve bank established under this section. The Federal reserve bank shall thereupon proceed to wind up the business of such branch bank, subject to such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe.

No Federal Reserve bank shall have authority hereafter to enter into any contract or contracts for the erection of any branch bank building of any kind or character or to authorize the erection of any such building, except with the approval of the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 3, 38 Stat. 253; June 21, 1917, ch. 32, § 1, 40 Stat. 232; Feb. 25, 1927, ch. 191, § 19, 44 Stat. 1234; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; Aug. 31, 1962, Pub. L. 87-622, § 2, 76 Stat. 418.)

AMENDMENTS

1962—Pub. L. 87-622 added par. providing that no Federal Reserve Bank shall have authority to enter into any contract for the erection of a branch bank building or to authorize the erection of such building, except with the approval of the Board of Governors of the Federal Reserve System.

1927—Act Feb. 25, 1927, added par. authorizing the Federal Reserve Board to discontinue and wind up the business of branch banks.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 522. Federal reserve branch bank buildings

No Federal reserve bank shall have authority hereafter to enter into any contract or contracts for the erection of any branch bank building of any kind or character, or to authorize the erection of any such building, if the cost of the building proper, exclusive of the cost of the vaults, permanent equipment, furnishings, and fixtures, is in excess of $250,000: *Provided,* That nothing herein shall apply to any building under construction prior to June 3, 1922: *Provided further,* That the cost as above specified shall not be so limited as long as the aggregate of such costs which are incurred by all Federal Reserve banks for branch bank buildings with the approval of the Board of Governors after July 30, 1947 does not exceed $140,000,000.

(Dec. 23, 1913, ch. 6, § 10 (par.), as added June 3, 1922, ch. 205, 42 Stat. 621, and amended Feb. 6, 1923, ch. 60, 42 Stat. 1223; July 30, 1947, ch. 352, 61 Stat. 520; May 29, 1953, ch. 87, 67 Stat. 41; Aug. 31, 1962, Pub. L. 87-622, § 1, 76 Stat. 418; Oct. 28, 1974, Pub. L. 93-495, title I, § 108, 88 Stat. 1505.)

CODIFICATION

Section is comprised of ninth paragraph of act Dec. 23, 1913, § 10, as added June 3, 1922. For classification to this title of other paragraphs of section 10, see Codification note under section 241 of this title.

AMENDMENTS

1974—Pub. L. 93-495 increased from $60,000,000 to $140,000,000 the limitation on aggregate costs of constructing branch bank buildings.

1962—Pub. L. 87-622 increased from $30,000,000 to $60,000,000 the limitation on aggregate costs of constructing branch bank buildings.

1953—Act May 29, 1953, increased from $10,000,000 to $30,000,000 the limitation on aggregate cost of constructing branch bank buildings.

1947—Act July 30, 1947, added proviso exempting limitation on cost of construction where aggregate costs do not exceed $10,000,000.

CHAPTER 4—TAXATION

SUBCHAPTER I—FEDERAL RESERVE BANKS

Sec.
531. Exemption from taxation.

SUBCHAPTER II—NATIONAL BANK CIRCULATION

541. Tax on circulating notes generally.
542 to 547. Omitted.

SUBCHAPTER III—NATIONAL BANK SHARES

548. State taxation.

SUBCHAPTER IV—STATE BANK CIRCULATION

561 to 570. Omitted.

SUBCHAPTER I—FEDERAL RESERVE BANKS

§ 531. Exemption from taxation

Federal reserve banks, including the capital stock and surplus therein and the income derived therefrom, shall be exempt from Federal, State, and local taxation, except taxes upon real estate.

(Dec. 23, 1913, ch. 6, § 7, 38 Stat. 258; Mar. 3, 1919, ch. 101, § 1, 40 Stat. 1314.)

Codification

Section is comprised of third par. of section 7 of act Dec. 23, 1913. First and second pars. of section 7 are classified to sections 289 and 290 of this title, respectively.

Cross References

United States obligations and evidences of ownership issued on or after March 28, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

Section Referred to in Other Sections

This section is referred to in section 447 of this title.

SUBCHAPTER II—NATIONAL BANK CIRCULATION

§ 541. Tax on circulating notes generally

In lieu of all existing taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one-half of 1 per centum each half year upon the average amount of its notes in circulation.

(R.S. § 5214; Mar. 3, 1883, ch. 121, § 1, 22 Stat. 488.)

Prior Provisions

R.S. § 5214 is derived from act June 3, 1864, ch. 106, § 41, 13 Stat. 111, which was part of the National Bank Act. See section 38 of this title.

§§ 542 to 547. Omitted

Codification

Section 542, act Mar. 14, 1900, ch. 41, § 13, 31 Stat. 49, related to tax on circulating notes secured by 2 per centum bonds.

Section 543, act Dec. 21, 1905, ch. 3, § 1, 34 Stat. 5, related to tax on circulating notes secured by Panama Canal 2 per centum bonds and rights and privileges of such bonds.

Section 544, R.S. § 5215; act Mar. 3, 1883, ch. 121, § 1, 22 Stat. 488, related to half-yearly return of circulation.

Section 545, R.S. § 5216; act Mar. 3, 1883, ch. 121, § 1, 22 Stat. 488, related to penalty for failure to make return.

Section 546, R.S. § 5217, related to enforcing tax on circulation.

Section 547, R.S. § 5218; act June 10, 1921, ch. 18, § 304, 42 Stat. 24, related to refunding excess tax.

Repeals

Effective July 1, 1935, the permanent appropriation formerly provided for in former section 547 of this title was repealed by act June 26, 1934, ch. 756, § 2, 48 Stat. 1226, such act authorizing in lieu thereof, an annual appropriation from the general fund of the Treasury. See section 725a(b) of Title 31, Money and Finance.

Redemption of Bonds; Termination of Circulating Notes

In a communication from the Treasury Department dated February 17, 1941, it was stated "The Secretary of the Treasury called for redemption the only outstanding issues of United States bonds bearing the circulation privilege as follows:

"2% Consols. of 1930, as of July 1, 1935,

"2% Panama Canal bonds of 1916-36, and

"2% Panama Canal bonds of 1918-38, as of August 1, 1935.

"The retirement of these issues automatically put an end to National Bank note circulation and the collection of the tax thereon."

SUBCHAPTER III—NATIONAL BANK SHARES

§ 548. State taxation

For the purposes of any tax law enacted under authority of the United States or any State, a national bank shall be treated as a bank organized and existing under the laws of the State or other jurisdiction within which its principal office is located.

(R.S. § 5219; Mar. 4, 1923, ch. 267, 42 Stat. 1499; Mar. 25, 1926, ch. 88, 44 Stat. 223; Dec. 24, 1969, Pub. L. 91-156, §§ 1(a), 2(a), 83 Stat. 434.)

Amendments

1969—Pub. L. 91-156, § 2(a), substituted provisions directing that national banks, for purposes of both Federal and State tax laws, be treated as banks organized and existing under the laws of the State or other jurisdiction within which each bank's principal office is located for provisions placing restrictions on the taxation of national bank shares and, for the period until the effective date of such amendment, set out interim provisions regarding intangible personal property taxes of States and local governments on national banks.

Pub. L. 91-156, § 1(a), added par. 5.

1926—Act Mar. 25, 1926, among other changes inserted "on their net income" in cl. (3) of former opening par., and added cl. (4) thereto, and inserted proviso in former subsec. 1(c).

Effective Date of 1969 Amendment

Section 1(b) of Pub. L. 91-156 provided that: "The amendment made by subsection (a) of this section [setting out interim provisions regarding intangible personal property taxes of State and local governments on national banks] shall be effective from the date of enactment of this Act [Dec. 24, 1969] until the effective date [Jan. 1, 1973] of the amendment made by section 2(a) of this Act [removing restrictions on

the taxation of national bank shares and directing that national banks, for purposes of both Federal and State tax laws, be treated as banks organized and existing under the laws of the State or other jurisdiction within which each bank's principal office is located]."

Section 2(b) of Pub. L. 91-156, as amended by Pub. L. 92-213, § 4(a), Dec. 22, 1971, 85 Stat. 775, provided that: "The amendment made by subsection (a) [removing all special restriction on the taxation of national bank shares by State and local taxing authorities] becomes effective on January 1, 1973".

Savings Clause

Section 3 of Pub. L. 91-156, as amended by Pub. L. 92-213, § 4(a), Dec. 22, 1971, 85 Stat. 775, provided that:

"(a) Except as provided in subsection (b) of this section, prior to January 1, 1973, no tax may be imposed on any class of banks by or under authority of any State legislation in effect prior to the enactment of this Act [Dec. 24, 1969] unless

"(1) the tax was imposed on that class of banks prior to the enactment of this Act [Dec. 24, 1969], or

"(2) the imposition of the tax is authorized by affirmative action of the State legislature after the enactment of this Act [Dec. 24, 1969].

"(b) The prohibition of subsection (a) of this section does not apply to

"(1) any sales tax or use tax complementary thereto,

"(2) any tax (including a documentary stamp tax) on the execution, delivery, or recordation of documents, or

"(3) any tax on tangible personal property (not including cash or currency), or for any license, registration, transfer, excise or other fee or tax imposed on the ownership, use or transfer of tangible personal property,

imposed by a State which does not impose a tax, or an increased rate of tax, in lieu thereof."

Prior Provisions

R.S. § 5219 is derived from act June 3, 1864, ch. 106, § 41, 13 Stat. 111, which was the National Bank Act, and act Feb. 10, 1868, ch. 7, 15 Stat. 34. See section 38 of this title.

State Taxation of Federally Insured Financial Institutions; Study and Report by Advisory Commission on Intergovernmental Relations

Pub. L. 93-100, § 7, Aug. 16, 1973, 87 Stat. 347, eff. on the 30th day after Aug. 16, 1973, as amended by Pub. L. 93-495, title I, § 114, Oct. 28, 1974, 88 Stat. 1507; Pub. L. 94-222, §§ 1, 4, Feb. 27, 1976, 90 Stat. 197, 198, eff. Jan. 1, 1976, provided that it was to be cited as the "State Taxation of Depositories Act"; that it was applicable to taxable years or periods beginning on or after Aug. 16, 1973; that an efficient banking system and the free flow of commerce would be furthered by clarification of principles as to State taxation of interstate transactions of banks and other depositories; that taxes measured by income or receipts or other "doing business" taxes in states where depositories do not have their principal offices, should be deferred until uniform and equitable methods are developed; that no such taxes should be imposed on or after Aug. 16, 1973 and before Sept. 12, 1976; that "insured depository" means any bank or institution insured under the Federal Deposit Insurance Act or the Federal Savings and Loan Insurance Corporation or any member institution of a Federal home loan bank; that "State" means the several States of the United States, the District of Columbia, the Virgin Islands, Guam, and American Samoa; and that the Advisory Commission on Intergovernmental Relations should study the matter of State "doing business" taxes and report to Congress no later than Dec. 31, 1974.

Study by Board of Governors of Federal Reserve System; Report by June 22, 1972

Section 4(b) of Pub. L. 92-213 required the Board of Governors of the Federal Reserve System to make a study of the probable impact on the revenues of State and local governments of the extension until Jan. 1, 1973, under subsection (a), of the termination date of interim provisions regarding intangible personal property taxes of State and local governments on national banks and to report the results of its study to the Congress not later than six months after Dec. 22, 1971.

Study by Board of Governors of Federal Reserve System; Report by Dec. 31, 1970

Section 4 of Pub. L. 91-156 provided that the Board of Governors of the Federal Reserve System make a study to determine the probable impact on the banking system and other economic effects of the changes in existing law made by section 2 of this Act [amending this section] and that such study include the Board's recommendation as to what additional Federal legislation may be needed to reconcile the promotion of economic efficiency in the banking system with the achievement of effectiveness and local autonomy in meeting the fiscal needs of the States and their political subdivisions. The results of the Board's study were to be made to Congress not later than December 31, 1970.

Cross References

Capital, stock and stockholders of national banking associations, generally, see section 51 et seq. of this title.

Certificate of exemption from taxation of farm loan bonds, see sections 874 and 880 of this title.

Dividends paid by national banking association, see section 51b et seq. of this title.

Exemption from taxation:

Federal credit unions, see section 1768 of this title.

Federal Deposit Insurance Corporation, see section 1825 of this title.

Federal Home Loan Banks, see section 1433 of this title.

Federal Land Banks, see section 2055 of this title.

Federal National Mortgage Association, see section 1723a of this title.

Federal Reserve Banks, see section 531 of this title.

Federal savings and loan associations, see section 1464 of this title.

National farm loan associations, see section 2055 of this title.

Section Referred to in Other Sections

This section is referred to in section 932 of this title.

SUBCHAPTER IV—STATE BANK CIRCULATION

§§ 561 to 570. Omitted

Repeals

Provisions of these sections were incorporated in Title 26, Internal Revenue Code, as follows:

This Title	Title 26
561	1905, I.R.C. 1939; 4882, I.R.C. 1954
562	1900(b)(2), I.R.C. 1939; 4881, I.R.C. 1954
563	1900(b)(2) I.R.C. 1939; 4881, I.R.C. 1954
564	1902(b), I.R.C. 1939; 6151(a), I.R.C. 1954
565	1901, I.R.C. 1939; 4883, I.R.C. 1954
566	1902(a)(1)(2), I.R.C. 1939; 6011(a), 6065(a), 6071, 6091(b)(1), (2), I.R.C. 1954
567	1903, 1904, I.R.C. 1939; 4885, I.R.C. 1954
568	1902(a)(4), I.R.C. 1939; omitted, I.R.C. 1954
569	1906, I.R.C. 1939; 4883, I.R.C. 1954
570	3798, I.R.C. 1939; 7507, I.R.C. 1954

Insofar as they related exclusively to internal revenue they were repealed by section 4(a) of enacting

section of 1939 Internal Revenue Code, preceding subtitle A of Title 26, I.R.C. 1939. See notes under corresponding sections of Title 26, Internal Revenue Code, 1954, for derivation and basic credits for former sections 561 to 570 of this title.

CHAPTER 5—CRIMES AND OFFENSES

SUBCHAPTER I—IN GENERAL

Sec.
581. Repealed.
582. Receipt of United States or bank notes as collateral.
583 to 588d. Repealed.

SUBCHAPTER II—FEDERAL RESERVE AND MEMBER BANKS, OFFICERS, EMPLOYEES, AND EXAMINERS

591 to 599. Repealed.

SUBCHAPTER I—IN GENERAL

§ 581. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, R.S. § 5187, relating to unauthorized issue of circulating notes, is covered by section 334 of Title 18, Crimes and Criminal Procedure.

§ 582. Receipt of United States or bank notes as collateral

No national banking association shall hereafter offer or receive United States notes or national-bank notes as security or as collateral security for any loan of money, or for a consideration agree to withhold the same from use, or offer or receive the custody or promise of custody of such notes as security, or as collateral security, or consideration for any loan of money. Any association offending against the provisions of this section shall be deemed guilty of a misdemeanor and shall be fined not more than $1,000 and a further sum equal to one-third of the money so loaned. The officer or officers of any association who shall make any such loan shall be liable for a further sum equal to one-quarter of the money loaned; and any fine or penalty incurred by a violation of this section shall be recoverable for the benefit of the party bringing such suit.

(R.S. § 5207.)

PRIOR PROVISIONS

R.S. § 5207 is derived from act Feb. 19, 1869, ch. 32, 15 Stat. 270.

CROSS REFERENCES

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 146 of this title.

§§ 583 to 588d. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section 583, R.S. § 5243; act Aug. 23, 1935, ch. 614, § 318, 49 Stat. 712, relating to use of words "National", "Federal", or "United States", is covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 584, act May 24, 1926, ch. 377, § 1, 44 Stat. 628, relating to spurious advertisements or representations as to Federal farm loans and bonds, is covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 585, acts May 24, 1926, ch. 377, § 2, 44 Stat. 628; Aug. 23, 1935, ch. 614, § 332, 49 Stat. 719, relating to use of words "Federal", "United States", "Deposit Insurance", "reserve", is covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 586, act May 24, 1926, ch. 377, § 3, 44 Stat. 628, relating to false advertisements or representations as to membership in Federal Reserve System, is covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 587, acts May 24, 1926, ch. 377, § 4, 44 Stat. 628; Aug. 23, 1935, ch. 614, § 332, 49 Stat. 719, relating to penalties for violations of former sections 584-586, is covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 588, act May 24, 1926, ch. 377, § 5, 44 Stat. 629, relating to separability of former sections 584 to 587, is not covered.

Section 588a, acts May 18, 1934, ch. 304, § 1, 48 Stat. 783; Aug. 23, 1935, ch. 614, § 333, 49 Stat. 720, relating to definition of "bank", is covered by section 2113 of Title 18, Crimes and Criminal Procedure.

Section 588b, acts May 18, 1934, ch. 304, § 2, 48 Stat. 783; Aug. 24, 1937, ch. 747, 50 Stat. 749; June 29, 1940, ch. 455, 54 Stat. 695, relating to robbery of bank, is covered by section 2113 of Title 18, Crimes and Criminal Procedure.

Section 588c, act May 18, 1934, ch. 304, § 3, 48 Stat. 783, relating to killing or kidnapping as incident to robbery of a bank, is covered by section 2113 of Title 18, Crimes and Criminal Procedure.

Section 588d, act May 18, 1934, ch. 304, § 4, 48 Stat. 783, relating to jurisdiction of bank crimes, is covered by section 3231 of Title 18, Crimes and Criminal Procedure.

SUBCHAPTER II—FEDERAL RESERVE AND MEMBER BANKS, OFFICERS, EMPLOYEES, AND EXAMINERS

§§ 591 to 599. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section 591, R.S. § 5208; acts July 12, 1882, ch. 290, § 13, 22 Stat. 166; Sept. 26, 1918, ch. 177, § 7, 40 Stat. 972; Feb. 25, 1927, ch. 191, § 12, 44 Stat. 1231, relating to unlawful certification of checks, is covered by section 1004 of Title 18, Crimes and Criminal Procedure.

Section 592, R.S. § 5209; acts Sept. 26, 1918, ch. 177, § 7, 40 Stat. 972; Aug. 23, 1935, ch. 614, § 316, 49 Stat. 712, relating to embezzlement, is covered by sections 334, 656, and 1005 of Title 18, Crimes and Criminal Procedure.

Section 593, acts Dec. 23, 1913, ch. 6, § 22(a), 38 Stat. 272; Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970; Feb. 25, 1927, ch. 191, § 15, 44 Stat. 1232; Aug. 23, 1935, ch. 614, § 326(a), 49 Stat. 715, relating to loans and gratuities, is covered by sections 212, 213, and 655 of Title 18, Crimes and Criminal Procedure.

Section 594, acts Dec. 23, 1913, ch. 6, § 22(b), 38 Stat. 272; Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970; Aug. 23, 1935, ch. 614, § 326(b), 49 Stat. 716, relating to bank examiners performing other services for compensation and disclosure of information, is covered by sections 1906 and 1909 of Title 18, Crimes and Criminal Procedure.

Section 595, acts Dec. 23, 1913, ch. 6, § 22(c), 38 Stat. 272; June 21, 1917, ch. 32, § 11, 40 Stat. 240; Sept. 26, 1918, ch. 177, § 5, 40 Stat. 970, relating to officers and employees accepting commissions and gifts for procuring loans, is covered by section 215 of Title 18, Crimes and Criminal Procedure.

Section 596, act Dec. 23, 1913, ch. 6, § 22(h), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107, relating to false statements or overvaluation of securities to secure loan is covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 597, act Dec. 23, 1913, ch. 6, § 22(i), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107, relating to embezzlement, etc., is covered by sections 655 and 1005 of Title 18, Crimes and Criminal Procedure.

Section 598, act Dec. 23, 1913, ch. 6, § 22(j), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107, relating to application of former sections 202 to 207 of Title 18, is not covered.

Section 599, act Dec. 23, 1913, ch. 6, § 22(k), as added June 19, 1934, ch. 653, § 3, 48 Stat. 1107, relating to fees, commissions, and bonuses in connection with loans, is covered by section 214 of Title 18, Crimes and Criminal Procedure.

CHAPTER 6—FOREIGN BANKING

SUBCHAPTER I—ESTABLISHMENT BY NATIONAL BANKS OF FOREIGN BRANCHES AND INVESTMENTS IN BANKS DOING FOREIGN BUSINESS

Sec.
601. Authorization; conditions and regulations.
602. Reports and examinations.
603. Restrictions imposed by Board of Governors of the Federal Reserve System on banks purchasing stock in corporations doing foreign business.
604. Accounts of foreign branches; profit and loss.
604a. Regulations authorizing exercise by foreign branches of usual powers of local banks; restrictions.
605. Repealed.

SUBCHAPTER II—ORGANIZATION OF CORPORATIONS TO DO FOREIGN BANKING

611. Formation authorized; fiscal agents; depositaries in insular possessions.
612. Articles of association; contents.
613. Signing of articles of association; forwarding to and filing by Board of Governors of the Federal Reserve System; organization certificate; contents.
614. Organization certificate; acknowledgment; forwarding to, filing, and approval by Board of Governors of the Federal Reserve System; permit to do business; body corporate; name; seal; corporate succession; contracts; suits; directors, officers, and employees; bylaws.
615. Powers of corporation.
(a) Dealings in drafts, checks, bills of exchange, acceptances, and other evidences of indebtedness; purchase and sale of securities; letters of credit; purchase and sale of coin, bullion, and exchange; borrowing and loaning money; issue of debentures, bonds, and notes; deposits; limitation of liabilities; reserves.
(b) Branches or agencies.
(c) Purchase of stock in other corporations.
616. Place of carrying on business; when business may be begun.
617. Engaging in commerce or trade in commodities; price fixing; forfeiture of charter; acts forbidden to directors, officers, agents, or employees.
618. Capital stock; amount; when paid in; outstanding liabilities.
619. Capital stock; by whom held.
620. Members of Board of Governors of the Federal Reserve System without interest in corporation.
621. Liability of shareholders on unpaid subscriptions; membership of corporation in Federal reserve bank prohibited.
622. Forfeiture of rights and privileges; dissolution; liability of directors and officers.
623. Voluntary liquidation.
624. Receivers.
625. Stockholders' meetings; books and records; reports; examination.
626. Dividends; surplus fund.
627. State taxation.
628. Extension of corporate existence.
629. Conversion of banking corporations into federal corporations; procedure.
630. Offenses by officers of corporation; punishment.
631. False representations as to liability of United States for acts of corporation; punishment.
632. Jurisdiction of United States courts; disposition by banks of foreign owned property.

SUBCHAPTER I—ESTABLISHMENT BY NATIONAL BANKS OF FOREIGN BRANCHES AND INVESTMENTS IN BANKS DOING FOREIGN BUSINESS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 36, 371c, 618, 1841 of this title; title 15 section 19.

§ 601. Authorization; conditions and regulations

Any national banking association possessing a capital and surplus of $1,000,000 or more may file application with the Board of Governors of the Federal Reserve System for permission to exercise, upon such conditions and under such regulations as may be prescribed by the said board, the following powers:

First. To establish branches in foreign countries or dependencies or insular possessions of the United States for the furtherance of the foreign commerce of the United States, and to act if required to do so as fiscal agents of the United States.

Second. To invest an amount not exceeding in the aggregate 10 per centum of its paid-in capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the United States or of any State thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions.

Third. To acquire and hold, directly or indirectly, stock or other evidences of ownership in one or more banks organized under the law of a foreign country or a dependency or insular possession of the United States and not engaged, directly or indirectly, in any activity in the United States except as, in the judgment of the Board of Governors of the Federal Reserve System, shall be incidental to the international or foreign business of such foreign bank; and, notwithstanding the provisions of section 371c of this title, to make loans or extensions of credit to or for the account of such bank in the manner and within the limits prescribed by the Board by general or specific regulation or ruling.

Until January 1, 1921, any national banking association, without regard to the amount of its capital and surplus, may file application with the Board of Governors of the Federal Reserve System for permission, upon such conditions and under such regulations as may be prescribed by said board, to invest an amount not exceeding in the aggregate 5 per centum of its paid-in capital and surplus in the stock of one or more corporations chartered or incorporated under the laws of the United States or of any State thereof and, regardless of its location, principally engaged in such phases of international or foreign financial operations as may be necessary to facilitate the export of goods, wares, or merchandise from the United States or any of its dependencies or insular possessions to any foreign country: *Provided, howev-*

er, That in no event shall the total investments authorized by this section by any one national bank exceed 10 per centum of its capital and surplus.

Such application shall specify the name and capital of the banking association filing it, the powers applied for, and the place or places where the banking or financial operations proposed are to be carried on. The Board of Governors of the Federal Reserve System shall have power to approve or to reject such application in whole or in part if for any reason the granting of such application is deemed inexpedient, and shall also have power from time to time to increase or decrease the number of places where such banking operations may be carried on.

(Dec. 23, 1913, ch. 6, § 25, 38 Stat. 273; Sept. 7, 1916, ch. 461, 39 Stat. 755; Sept. 17, 1919, ch. 60, §§ 1, 2, 41 Stat. 285, 286; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; July 1, 1966, Pub. L. 89-485, § 12(b), 80 Stat. 241.)

REFERENCES IN TEXT

This section, referred to the proviso of the 5th par., means section 25 of act Dec. 23, 1913, which is classified to this subchapter.

AMENDMENTS

1966—Pub. L. 89-485 deleted from the introductory par. "either or both of" preceding "the following powers".

Par. Third. Pub. L. 89-485 added par. Third.

1919—Act Sept. 17, 1919, added paragraph beginning "Until January 21, 1921" and inserted "financial" in first sentence of last paragraph.

1916—Act Sept. 7, 1916, among other changes, added paragraph Second, and provisions relating to restrictions on purchasing stock in other banks, investigations as to compliance with regulations, disposal of interest and separation of accounts, etc. which are now contained in section 602 et seq. of this title.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 602, 603 of this title.

§ 602. Reports and examinations

Every national banking association operating foreign branches shall be required to furnish information concerning the condition of such branches to the Comptroller of the Currency upon demand, and every member bank investing in the capital stock of banks or corporations described in subsection second of section 601 of this title shall be required to furnish information concerning the condition of such banks or corporations to the Board of Governors of the Federal Reserve System upon demand, and the Board of Governors of the Federal Reserve System may order special examinations of the said branches, banks, or corporations at such time or times as it may deem best.

(Dec. 23, 1913, ch. 6, § 25, 38 Stat. 273; Sept. 7, 1916, ch. 461, 39 Stat. 755; Sept. 17, 1919, ch. 60, § 3, 41 Stat. 286; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

AMENDMENTS

1919—Act Sept. 17, 1919, corrected reference to the preceding section.

1916—Act Sept. 7, 1916, substituted "operating" for "which shall receive authority to establish foreign branches" and inserted "every member bank investing in the capital stock of banks or corporations described in subsection second of section 601 of this title".

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 603. Restrictions imposed by Board of Governors of the Federal Reserve System on banks purchasing stock in corporations doing foreign business

Before any national bank shall be permitted to purchase stock in any corporation described in section 601 of this title, the said corporation shall enter into an agreement or undertaking with the Board of Governors of the Federal Reserve System to restrict its operations or conduct its business in such manner or under such limitations and restrictions as the said board may prescribe for the place or places wherein such business is to be conducted. If at any time the Board of Governors of the Federal Reserve System shall ascertain that the regulations prescribed by it are not being complied with, said board is authorized and empowered to institute an investigation of the matter and to send for persons and papers, subpoena witnesses, and administer oaths in order to satisfy itself as to the actual nature of the transactions referred to. Should such investigation result in establishing the failure of the corporation in question, or of the national bank or banks which may be stockholders therein, to comply with the regulations laid down by the said Board of Governors of the Federal Reserve System, such national banks may be required to dispose of stock holdings in the said corporation upon reasonable notice.

(Dec. 23, 1913, ch. 6, § 25 (par.), as added Sept. 7, 1916, ch. 461, 39 Stat. 755, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Act Sept. 7, 1916, added this section, as a new paragraph to act Dec. 23, 1913, ch. 6, § 25, 38 Stat. 273.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 604. Accounts of foreign branches; profit and loss

Every national banking association operating foreign branches shall conduct the accounts of each foreign branch independently of the accounts of other foreign branches established by it and of its home office, and shall at the end of each fiscal period transfer to its general ledger the profit or loss accrued at each branch as a separate item.

(Dec. 23, 1913, ch. 6, § 25, 38 Stat. 273; Sept. 7, 1916, ch. 461, 39 Stat. 755.)

AMENDMENTS

1916—Act Sept. 7, 1916, omitted "such" preceding "national", inserted "operating foreign branches" and substituted "accrued" for "accruing".

§ 604a. Regulations authorizing exercise by foreign branches of usual powers of local banks; restrictions

Regulations issued by the Board of Governors of the Federal Reserve System under this subchapter, in addition to regulating powers which a foreign branch may exercise under other provisions of law, may authorize such a foreign branch, subject to such condition and requirements as such regulations may prescribe, to exercise such further powers as may be usual in connection with the transaction of the business of banking in the places where such foreign branch shall transact business. Such regulations shall not authorize a foreign branch to engage in the general business of producing, distributing, buying or selling goods, wares, or merchandise; nor, except to such limited extent as the Board may deem to be necessary with respect to securities issued by any "foreign state" as defined in section 632 of this title, shall such regulations authorize a foreign branch to engage or participate, directly or indirectly, in the business of underwriting, selling, or distributing securities.

(Dec. 23, 1913, ch. 6, § 25 (par.), as added Aug. 15, 1962, Pub. L. 87-588, 76 Stat. 388.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25 of act Dec. 23, 1913, which is classified to this subchapter.

§ 605. Repealed. Aug. 23, 1935, ch. 614, § 329, 49 Stat. 717

Section, act Dec. 23, 1913, ch. 6, § 25, 38 Stat. 273 as amended by act Sept. 7, 1916, ch. 461, 39 Stat. 755, related to interlocking directors, officers, and employees and is covered by section 19 of Title 15, Commerce and Trade.

SUBCHAPTER II—ORGANIZATION OF CORPORATIONS TO DO FOREIGN BANKING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 371c, 1841 of this title; title 15 section 77kkk.

§ 611. Formation authorized; fiscal agents; depositaries in insular possessions

Corporations to be organized for the purpose of engaging in international or foreign banking or other international or foreign financial operations, or in banking or other financial operations in a dependency or insular possession of the United States, either directly or through the agency, ownership or control of local institutions in foreign countries, or in such dependencies or insular possessions as provided by this subchapter and to act when required by the Secretary of the Treasury as fiscal agents of the United States, may be formed by any number of natural persons, not less in any case than five: *Provided,* That nothing in this subchapter shall be construed to deny the right of the Secretary of the Treasury to use any corporation organized under this subchapter as depositaries in Panama and the Panama Canal Zone, or other insular possessions and dependencies of the United States.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Feb. 27, 1921, ch. 73, 41 Stat. 1145; Proc. No. 2695, eff. July 4, 1946, 11 F.R. 2517, 60 Stat. 1352.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added as a new section to act Dec. 23, 1913, ch. 6, by act Dec. 24, 1919.

Words "in the Philippine Islands and" following "Canal Zone, or" were deleted on authority of Proc. No. 2695, which granted independence to the Philippine Islands pursuant to section 1394 of Title 22. Proc. No. 2695 is set out as a note under section 1394 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1921—Act Feb. 27, 1921, added proviso.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 612, 615 of this title.

§ 612. Articles of association; contents

The persons described in section 611 of this title shall enter into articles of association which shall specify in general terms the objects for which the association is formed and may contain any other provisions not inconsistent with law which the association may see fit to adopt for the regulation of its business and the conduct of its affairs.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378.)

REFERENCES IN TEXT

The persons described in section 611 of this title, referred to in text, in the original read "Such persons".

CODIFICATION

Section is a part of section 25(a) which was added as a new section to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 613, 615 of this title.

§ 613. Signing of articles of association; forwarding to and filing by Board of Governors of the Federal Reserve System; organization certificate; contents

Articles of association described in section 612 of this title shall be signed by all of the persons intending to participate in the organization of the corporation and, thereafter, shall be forwarded to the Board of Governors of the Federal Reserve System and shall be filed and preserved in its office. The persons signing the said articles of association shall, under their hands, make an organization certificate which shall specifically state:

First. The name assumed by such corporation, which shall be subject to the approval of the Board of Governors of the Federal Reserve System.

Second. The place or places where its operations are to be carried on.

Third. The place in the United States where its home office is to be located.

Fourth. The amount of its capital stock and the number of shares into which the same shall be divided.

Fifth. The names and places of business or residence of the persons executing the certificate and the number of shares to which each has subscribed.

Sixth. The fact that the certificate is made to enable the persons subscribing the same, and all other persons, firms, companies, and corporations, who or which may thereafter subscribe to or purchase shares of the capital stock of such corporation, to avail themselves of the advantages of this subchapter.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Articles of association described in section 612 of this title, referred to in text, in the original read "Such articles of association".

This subchapter, referred to in par. sixth, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added as a new section to act Dec. 23, 1913, ch. 6, by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615 of this title.

§ 614. Organization certificate; acknowledgment; forwarding to, filing, and approval by Board of Governors of the Federal Reserve System; permit to do business; body corporate; name; seal; corporate succession; contracts; suits; directors, officers, and employees; bylaws

The persons signing the organization certificate shall duly acknowledge the execution thereof before a judge of some court of record or notary public, who shall certify thereto under the seal of such court or notary, and thereafter the certificate shall be forwarded to the Board of Governors of the Federal Reserve System to be filed and preserved in its office. Upon duly making and filing articles of association and an organization certificate, and after the Board of Governors of the Federal Reserve System has approved the same and issued a permit to begin business, the association shall become and be a body corporate, and as such and in the name designated therein shall have power to adopt and use a corporate seal, which may be changed at the pleasure of its board of directors; to have succession for a period of twenty years unless sooner dissolved by the act of the shareholders owning two-thirds of the stock or by an act of Congress or unless its franchises become forfeited by some violation of law; to make contracts; to sue and be sued, complain, and defend in any court of law or equity; to elect or appoint directors, all of whom shall be citizens of the United States; and, by its board of directors, to appoint such officers and employees as may be deemed proper, define their authority and duties, require bonds of them, and fix the penalty thereof, dismiss such officers or employees, or any thereof, at pleasure and appoint others to fill their places; to prescribe, by its board of directors, bylaws not inconsistent with law or with the regulations of the Board of Governors of the Federal Reserve System regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers and employees appointed, its property transferred, and the privileges granted to it by law exercised and enjoyed.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CODIFICATION

Section is a part of section 25(a), which was added as a new section to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 615 of this title.

§ 615. Powers of corporation

Each corporation organized as provided in sections 611 to 614 of this title shall have power, under such rules and regulations as the Board of Governors of the Federal Reserve System may prescribe:

(a) Dealings in drafts, checks, bills of exchange, acceptances, and other evidences of indebtedness; purchase and sale of securities; letters of credit; purchase and sale of coin, bullion, and exchange; borrowing and loaning money; issue of debentures, bonds, and notes; deposits; limitation of liabilities; reserves

To purchase, sell, discount, and negotiate, with or without its indorsement or guaranty, notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to purchase and sell, with or without its indorsement or guaranty, securities, including the obligations of the United States or of any State thereof but not including shares of stock in any corporation except as herein provided; to accept bills or drafts drawn upon it subject to such limitations and restrictions as the Board of Governors of the Federal Reserve System may impose: to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to issue debentures, bonds, and promissory notes under such general conditions as to security and such limitations as the Board of Governors of the Federal Reserve System may prescribe, but in no event having liabilities outstanding thereon at any

one time exceeding ten times its capital stock and surplus; to receive deposits outside of the United States and to receive only such deposits within the United States as may be incidental to or for the purpose of carrying out transactions in foreign countries or dependencies or insular possessions of the United States; and generally to exercise such powers as are incidental to the power conferred by this Act or as may be usual, in the determination of the Board of Governors of the Federal Reserve System, in connection with the transaction of the business of banking or other financial operations in the countries, colonies, dependencies, or possessions in which it shall transact business and not inconsistent with the powers specifically granted herein. Nothing contained in this subchapter shall be construed to prohibit the Board of Governors of the Federal Reserve System, under its power to prescribe rules and regulations, from limiting the aggregate amount of liabilities of any or all classes incurred by the corporation and outstanding at any one time. Whenever a corporation organized under this subchapter receives deposits in the United States authorized by this subchapter, it shall carry reserves in such amounts as the Board of Governors of the Federal Reserve System may prescribe, but in no event less than 10 per centum of its deposits.

(b) Branches or agencies

To establish and maintain for the transaction of its business branches or agencies in foreign countries, their dependencies or colonies, and in the dependencies or insular possessions of the United States, at such places as may be approved by the Board of Governors of the Federal Reserve System and under such rules and regulations as it may prescribe, including countries or dependencies not specified in the original organization certificate.

(c) Purchase of stock in other corporations

With the consent of the Board of Governors of the Federal Reserve System to purchase and hold stock or other certificates of ownership in any other corporation organized under the provisions of this subchapter, or under the laws of any foreign country or a colony or dependency thereof, or under the laws of any State, dependency, or insular possession of the United States but not engaged in the general business of buying or selling goods, wares, merchandise, or commodities in the United States, and not transacting any business in the United States except such as in the judgment of the Board of Governors of the Federal Reserve System may be incidental to its international or foreign business: *Provided, however,* That, except with the approval of the Board of Governors of the Federal Reserve System, no corporation organized under this subchapter shall invest in any one corporation an amount in excess of 10 per centum of its own capital and surplus, except in a corporation engaged in the business of banking, when 15 per centum of its capital and surplus may be so invested: *Provided further,* That no corporation organized under this subchapter shall purchase, own, or hold stock or certificates of ownership in any other corporation organized under this subchapter or under the laws of any State which is in substantial competition therewith, or which holds stock or certificates of ownership in corporations which are in substantial competition with the purchasing corporation.

Nothing contained herein shall prevent corporations organized under this subchapter from purchasing and holding stock in any corporation where such purchase shall be necessary to prevent a loss upon a debt previously contracted in good faith; and stock so purchased or acquired in corporations organized under this subchapter shall, within six months from such purchase, be sold or disposed of at public or private sale, unless the time to so dispose of same is extended by the Board of Governors of the Federal Reserve System.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Each corporation organized as provided in sections 611 to 614 of this title, referred to in first par., in the original read "Each corporation so organized".

This Act, referred to in subsec. (a), means the Federal Reserve Act, act Dec. 23, 1913, as amended. For distribution of the Federal Reserve Act in this Code, see Distribution note set out under section 226 of this title.

This subchapter, referred to in subsecs. (a) and (c), in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

Organized under this subchapter, referred to in subsec. (c), in the original read "organized hereunder" meaning under section 25(a) of act Dec. 23, 1913, which comprises this subchapter.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 616. Place of carrying on business; when business may be begun

No corporation organized under this subchapter shall carry on any part of its business in the United States except such as, in the judgment of the Board of Governors of the Federal Reserve System, shall be incidental to its international or foreign business: *And provided further,* That except such as is incidental and preliminary to its organization, no such corporation shall exercise any of the powers conferred by this subchapter until it has been duly authorized by the Board of Governors of the Federal Reserve System to commence business as a corporation organized under the provisions of this subchapter.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 617. Engaging in commerce or trade in commodities; price fixing; forfeiture of charter; acts forbidden to directors, officers, agents, or employees

No corporation organized under this subchapter shall engage in commerce or trade in commodities except as specifically provided in this subchapter, nor shall it, either directly or indirectly, control or fix or attempt to control or fix the price of any such commodities. The charter of any corporation violating this provision shall be subject to forfeiture in the manner provided in this subchapter. It shall be unlawful for any director, officer, agent, or employee of any such corporation to use or to conspire to use the credit, the funds, or the power of the corporation to fix or control the price of any such commodities, and any such person violating this provision shall be liable to a fine of not less than $1,000 and not exceeding $5,000 or imprisonment not less than one year and not exceeding five years, or both, in the discretion of the court.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CROSS REFERENCES

Felony, offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 618. Capital stock; amount; when paid in; outstanding liabilities

No corporation shall be organized under the provisions of this subchapter with a capital stock of less than $2,000,000, one-quarter of which must be paid in before the corporation may be authorized to begin business, and the remainder of the capital stock of such corporation shall be paid in installments of at least 10 per centum on the whole amount to which the corporation shall be limited as frequently as one installment at the end of each succeeding two months from the time of the commencement of its business operations until the whole of the capital stock shall be paid in: *Provided, however,* That whenever $2,000,000 of the capital stock of any corporation is paid in the remainder of the corporation's capital stock or any unpaid part of such remainder may, with the consent of the Board of Governors of the Federal Reserve System and subject to such regulations and conditions as it may prescribe, be paid in upon call from the board of directors; such unpaid subscriptions, however, to be included in the maximum of 10 per centum of the national bank's capital and surplus which a national bank is permitted under the provisions of this Act to hold in stock of corporations engaged in business of the kind described in this subchapter and subchapter I of this chapter: *Provided further,* That no such corporation shall have liabilities outstanding at any one time upon its debentures, bonds, and promissory notes in excess of ten times its paid-in capital and surplus. The capital stock of any such corporation may be increased at any time, with the approval of the Board of Governors of the Federal Reserve System, by a vote of two-thirds of its shareholders or by unanimous consent in writing of the shareholders without a meeting and without a formal vote, but any such increase of capital shall be fully paid in within ninety days after such approval; and may be reduced in like manner, provided that in no event shall it be less than $2,000,000. No corporation, except as herein provided, shall during the time it shall continue its operations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. Any national banking association may invest in the stock of any corporation organized under the provisions of said sections, but the aggregate amount of stock held in all corporations engaged in business of the kind described in this subchapter and subchapter I of this chapter shall not exceed 10 per centum of the subscribing bank's capital and surplus.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended June 14, 1921, ch. 22, 42 Stat. 28; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

This Act, referred to in text, means the Federal Reserve Act, act Dec. 23, 1913, as amended. For distribution of the Federal Reserve Act in this Code, see Distribution note set out under section 226 of this title.

Subchapter I [§ 601 et seq.] of this chapter, referred to in text, in the original read "section 25 of the Federal Reserve Act as amended".

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

AMENDMENTS

1921—Act June 14, 1921, added two provisos in first paragraph.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 619. Capital stock; by whom held

A majority of the shares of the capital stock of any such corporation shall at all times be held and owned by citizens of the United States, by corporations the controlling interest in which is owned by citizens of the United States, chartered under the laws of the United States or of a State of the United States, or by firms or companies, the controlling interest in which is owned by citizens of the United States.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 329, 49 Stat. 717.)

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

AMENDMENTS

1935—Act Aug. 23, 1935, omitted provisions relating to application of section 19 of Title 15, to directors, officers or employees of corporations organized under sections 611–631 of this title, and excepting certain persons who received approval of Federal Reserve Board, from application of this section.

§ 620. Members of Board of Governors of the Federal Reserve System without interest in corporation

No member of the Board of Governors of the Federal Reserve System shall be an officer or director of any corporation organized under the provisions of this subchapter or of any corporation engaged in similar business organized under the laws of any State, nor hold stock in any such corporation, and before entering upon his duties as a member of the Board of Governors of the Federal Reserve System he shall certify under oath to the Secretary of the Treasury that he has complied with this requirement.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 621. Liability of shareholders on unpaid subscriptions; membership of corporation in Federal reserve bank prohibited

Shareholders in any corporation organized under the provisions of this subchapter shall be liable for the amount of their unpaid stock subscriptions. No such corporation shall become a member of any Federal reserve bank.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

§ 622. Forfeiture of rights and privileges; dissolution; liability of directors and officers

Should any corporation organized under this subchapter violate or fail to comply with any of the provisions of this subchapter, all of its rights, privileges, and franchises derived herefrom may thereby be forfeited. Before any such corporation shall be declared dissolved, or its rights, privileges, and franchises forfeited, any noncompliance with or violation of such laws shall, however, be determined and adjudged by a court of the United States of competent jurisdiction, in a suit brought for that purpose in the district or territory in which the home office of such corporation is located, which suit shall be brought by the United States at the instance of the Board of Governors of the Federal Reserve System or the Attorney General. Upon adjudication of such noncompliance or violation, each director and officer who participated in, or assented to, the illegal act or acts shall be liable in his personal or individual capacity for all damages which the said corporation shall have sustained in consequence thereof. No dissolution shall take away or impair any remedy against the corporation, its stockholders, or officers for any liability or penalty previously incurred.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Organized under this subchapter, referred to in text, in the original read "organized hereunder" meaning under section 25(a) of act Dec. 23, 1913, which comprises this subchapter.

The provisions of this subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 623. Voluntary liquidation

Any corporation organized under this subchapter may go into voluntary liquidation and be closed by a vote of its shareholders owning two-thirds of its stock.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378.)

REFERENCES IN TEXT

Any corporation organized under this subchapter, referred to in text, in the original read "Any such corporation".

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

§ 624. Receivers

Whenever the Board of Governors of the Federal Reserve System shall become satisfied of the insolvency of any corporation organized under this subchapter, it may appoint a receiv-

er who shall take possession of all of the property and assets of the corporation and exercise the same rights, privileges, powers, and authority with respect thereto as are now exercised by receivers of national banks appointed by the Comptroller of the Currency of the United States: *Provided, however,* That the assets of the corporation subject to the laws of other countries or jurisdictions shall be dealt with in accordance with the terms of such laws.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

Any corporation organized under this subchapter, referred to in text, in the original read "any such corporation".

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION AS TO TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

CROSS REFERENCES

National banks, see section 191 et seq. of this title.

§ 625. Stockholders' meetings; books and records; reports; examination

Every corporation organized under the provisions of this subchapter shall hold a meeting of its stockholders annually upon a date fixed in its bylaws, such meeting to be held at its home office in the United States. Every such corporation shall keep at its home office books containing the names of all stockholders thereof, and the names and addresses of the members of its board of directors, together with copies of all reports made by it to the Board of Governors of the Federal Reserve System. Every such corporation shall make reports to the Board of Governors of the Federal Reserve System at such times and in such form as it may require; and shall be subject to examination once a year and at such other times as may be deemed necessary by the Board of Governors of the Federal Reserve System by examiners appointed by the Board of Governors of the Federal Reserve System, the cost of such examinations, including the compensation of the examiners, to be fixed by the Board of Governors of the Federal Reserve System and to be paid by the Corporation examined.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 626. Dividends; surplus fund

The directors of any corporation organized under the provisions of this subchapter may, semiannually, declare a dividend of so much of the net profits of the corporation as they shall judge expedient; but each corporation shall, before the declaration of a dividend, carry one-tenth of its net profits of the preceding half year to its surplus fund until the same shall amount to 20 per centum of its capital stock.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

§ 627. State taxation

Any corporation organized under the provisions of this subchapter shall be subject to tax by the State within which its home office is located in the same manner and to the same extent as other corporations organized under the laws of that State which are transacting a similar character of business. The shares of stock in such corporation shall also be subject to tax as the personal property of the owners or holders thereof in the same manner and to the same extent as the shares of stock in similar State corporations.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

§ 628. Extension of corporate existence

Any corporation organized under the provisions of this subchapter may at any time within the two years next previous to the date of the expiration of its corporate existence, by a vote of the shareholders owning two-thirds of its stock, apply to the Board of Governors of the Federal Reserve System for its approval to extend the period of its corporate existence for a term of not more than twenty years, and upon certified approval of the Board of Governors of the Federal Reserve System such corporation shall have its corporate existence for such extended period unless sooner dissolved by

the act of the shareholders owning two-thirds of its stock, or by an Act of Congress or unless its franchise becomes forfeited by some violation of law.

(Dec. 23, 1913, ch. 6 § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 629. Conversion of banking corporations into federal corporations; procedure

Any bank or banking institution, principally engaged in foreign business, incorporated by special law of any State or of the United States or organized under the general laws of any State or of the United States and having an unimpaired capital sufficient to entitle it to become a corporation under the provisions of this subchapter may, by the vote of the shareholders owning not less than two-thirds of the capital stock of such bank or banking association, with the approval of the Board of Governors of the Federal Reserve System, be converted into a Federal corporation of the kind authorized by this subchapter with any name approved by the Board of Governors of the Federal Reserve System: *Provided, however,* That said conversion shall not be in contravention of the State law. In such case the articles of association and organization certificate may be executed by a majority of the directors of the bank or banking institution, and the certificate shall declare that the owners of at least two-thirds of the capital stock have authorized the directors to make such certificate and to change or convert the bank or banking institution into a Federal corporation. A majority of the directors, after executing the articles of association and the organization certificate, shall have power to execute all other papers and to do whatever may be required to make its organization perfect and complete as a Federal corporation. The shares of any such corporation may continue to be for the same amount each as they were before the conversion, and the directors may continue to be directors of the corporation until others are elected or appointed in accordance with the provisions of this subchapter. When the Board of Governors of the Federal Reserve System has given to such corporation a certificate that the provisions of this subchapter have been complied with, such corporation and all its stockholders, officers, and employees shall have the same powers and privileges, and shall be subject to the same duties, liabilities, and regulations, in all respects, as shall have been prescribed by this subchapter for corporations originally organized thereunder.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

§ 630. Offenses by officers of corporation; punishment

Every officer, director, clerk, employee, or agent of any corporation organized under this subchapter who embezzles, abstracts, or willfully misapplies any of the moneys, funds, credits, securities, evidences of indebtedness or assets of any character of such corporation; or who, without authority from the directors, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, debenture, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, report, or statement of such corporation with intent, in either case, to injure or defraud such corporation or any other company, body politic or corporate, or any individual person, or to deceive any officer of such corporation, the Board of Governors of the Federal Reserve System, or any agent or examiner appointed to examine the affairs of any such corporation; and every receiver of any such corporation and every clerk or employee of such receiver who shall embezzle, abstract, or willfully misapply or wrongfully convert to his own use any moneys, funds, credits, or assets of any character which may come into his possession or under his control in the execution of his trust or the performance of the duties of his employment; and every such receiver or clerk or employee of such receiver who shall, with intent to injure or defraud any person, body politic or corporate, or to deceive or mislead the Board of Governors of the Federal Reserve System, or any agent or examiner appointed to examine the affairs of such receiver, shall make any false entry in any book, report, or record of any matter connected with the duties of such receiver; and every person who with like intent aids or abets any officer, director, clerk, employee, or agent of any corporation organized under this subchapter, or receiver or clerk or employee of such receiver as aforesaid in any violation of this subchapter, shall upon conviction thereof be imprisoned for not less than two years nor more than ten years, and may also be fined not more than $5,000, in the discretion of the court.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

CROSS REFERENCES

Felony, offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 631. False representations as to liability of United States for acts of corporation; punishment

Whoever being connected in any capacity with any corporation organized under this subchapter, represents in any way that the United States is liable for the payment of any bond or other obligation, or the interest thereon, issued or incurred by any corporation organized under this subchapter, or that the United States incurs any liability in respect of any act or omission of the corporation, shall be punished by a fine or[1] not more than $10,000 and by imprisonment for not more than five years.

(Dec. 23, 1913, ch. 6, § 25(a), as added Dec. 24, 1919, ch. 18, 41 Stat. 378.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this section" meaning section 25(a) of act Dec. 23, 1913, which is classified to sections 611 to 631 of this title.

Organized under this subchapter, referred to the second time in text, in the original read "organized hereunder" meaning under section 25(a) of act Dec. 23, 1913.

CODIFICATION

Section is a part of section 25(a), which was added to act Dec. 23, 1913, ch. 6 by act Dec. 24, 1919.

CROSS REFERENCES

Felony, offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

§ 632. Jurisdiction of United States courts; disposition by banks of foreign owned property

Notwithstanding any other provision of law, all suits of a civil nature at common law or in equity to which any corporation organized under the laws of the United States shall be a party, arising out of transactions involving international or foreign banking, or banking in a dependency or insular possession of the United States, or out of other international or foreign financial operations, either directly or through the agency, ownership, or control of branches or local institutions in dependencies or insular possessions of the United States or in foreign countries, shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such suits; and any defendant in any such suit may, at any time before the trial thereof, remove such suits from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law. Such removal shall not cause undue delay in the trial of such case and a case so removed shall have a place on the calendar of the United States court to which it is removed relative to that which it held on the State court from which it was removed.

Notwithstanding any other provision of law, all suits of a civil nature at common law or in equity to which any Federal reserve bank shall be a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such suits; and any Federal reserve bank which is a defendant in any such suit may, at any time before the trial thereof, remove such suit from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law. No attachment or execution shall be issued against any Federal reserve bank or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court.

Whenever (1) any Federal Reserve bank has received any property from or for the account of a foreign state which is recognized by the Government of the United States, or from or for the account of a central bank of any such foreign state, and holds such property in the name of such foreign state or such central bank; (2) a representative of such foreign state who is recognized by the Secretary of State as being the accredited representative of such foreign state to the Government of the United States has certified to the Secretary of State the name of a person as having authority to receive, control, or dispose of such property; and (3) the authority of such person to act with respect to such property is accepted and recognized by the Secretary of State, and so certified by the Secretary of State to the Federal Reserve bank, the payment, transfer, delivery, or other disposal of such property by such Federal Reserve bank to or upon the order of such person shall be conclusively presumed to be lawful and shall constitute a complete discharge and release of any liability of the Federal Reserve bank for or with respect to such property.

Whenever (1) any insured bank has received any property from or for the account of a foreign state which is recognized by the Government of the United States, or from or for the account of a central bank of any such foreign state, and holds such property in the name of such foreign state or such central bank; (2) a representative of such foreign state who is recognized by the Secretary of State as being the accredited representative of such foreign state to the Government of the United States has certified to the Secretary of State the name of a person as having authority to receive, control, or dispose of such property; and (3) the authority of such person to act with respect to such property is accepted and recognized by the Secretary of State, and so certified by the Secre-

[1] So in original. Probably should read "of".

tary of State to such insured bank, the payment, transfer, delivery, or other disposal of such property by such bank to or upon the order of such person shall be conclusively presumed to be lawful and shall constitute a complete discharge and release of any liability of such bank for or with respect to such property. Any suit or other legal proceeding against any insured bank or any officer, director, or employee thereof, arising out of the receipt, possession, or disposition of any such property shall be deemed to arise under the laws of the United States and the district courts of the United States shall have exclusive jurisdiction thereof, regardless of the amount involved; and any such bank or any officer, director, or employee thereof which is a defendant in any such suit may, at any time before trial thereof, remove such suit from a State court into the district court of the United States for the proper district by following the procedure for the removal of causes otherwise provided by law.

Nothing in this section shall be deemed to repeal or to modify in any manner any of the provisions of the Gold Reserve Act of 1934, as amended, the Silver Purchase Act of 1934, as amended, or subdivision (b) of section 5 of the act of October 6, 1917, as amended, or any actions, regulations, rules, orders, or proclamations taken, promulgated, made, or issued pursuant to any of such statutes. In any case in which a license to act with respect to any property referred to in this section is required under any of said statutes, regulations, rules, orders, or proclamations, notification to the Secretary of State by the proper Government officer or agency of the issuance of an appropriate license or that appropriate licenses will be issued on application shall be a prerequisite to any action by the Secretary of State pursuant to this section, and the action of the Secretary of State shall relate only to such property as is included in such notification. Each such notification shall include the terms and conditions of such license or licenses and a description of the property to which they relate.

For the purposes of this section, (1) the term "property" includes gold, silver, currency, credits, deposits, securities, choses in action, and any other form of property, the proceeds thereof, and any right, title, or interest therein; (2) the term "foreign state" includes any foreign government or any department, district, province, county, possession, or other similar governmental organization or subdivision of a foreign government, and any agency or instrumentality of any such foreign government or of any such organization or subdivision; (3) the term "central bank" includes any foreign bank or banker authorized to perform any one or more of the functions of a central bank; (4) the term "person" includes any individual, or any corporation, partnership, association, or other similar organization; and (5) the term "insured bank" shall have the meaning given to it in section 12B of this Act.

(Dec. 23, 1913, ch. 6, § 25(b), as added June 16, 1933, ch. 89, § 15, 48 Stat. 184, and amended Apr. 7, 1941, ch. 43, § 2, 55 Stat. 131.)

REFERENCES IN TEXT

The Gold Reserve Act of 1934, as amended, referred to in text, is act Jan. 30, 1934, ch. 6, 48 Stat. 337. For classification of this Act to the Code, see section 440 of Title 31, Money and Finance, and Tables volume.

The Silver Purchase Act of 1934, as amended, referred to in text, is act June 19, 1934, ch. 674, 48 Stat. 1178, which was classified to former sections 311a, 316a, 316b, 405a, 448 to 448e, 734a, and 734b of Title 31, Money and Finance, and was repealed by Pub. L. 88-36, title I, § 1, June 4, 1963, 77 Stat. 54. For classification of this Act to the Code, see Tables volume.

Subdivision (b) of section 5 of the act of Oct. 6, 1917, referred to in the text, is classified to section 95a of this title and section 5(b) of Appendix to Title 50, War and National Defense.

Section 12B of this Act, referred to in the text, was section 12B of the Federal Reserve Act and was formerly classified to section 264 of this title. Section 12B was withdrawn from the Federal Reserve Act and made a separate act to be known as the Federal Deposit Insurance Act by section 1 of act Sept. 21, 1950, ch. 967, 64 Stat. 873. The Federal Deposit Insurance Act is now classified to chapter 16 (§ 1811 et seq.) of this title.

CODIFICATION

Section was enacted as a new section 25(b) of the Federal Reserve Act, and not as part of section 25(a) of that Act which comprises this subchapter.

AMENDMENTS

1941—Act Apr. 7, 1941, added last four pars.

CROSS REFERENCES

Jurisdiction of federal questions dependent upon amount in controversy, see section 1331 of Title 28, Judiciary and Judicial Procedure.

Procedure for removal of cases, see section 1446 of Title 28,

FEDERAL RULES OF CIVIL PROCEDURE

Execution, see rule 69, Title 28, Appendix, Judiciary and Judicial Procedure.

One form of action, see rule 2, Title 28, Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 358, 604a of this title.

CHAPTER 6A—EXPORT-IMPORT BANK OF THE UNITED STATES

SUBCHAPTER I—GENERAL PROVISIONS

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635. Powers and functions of Bank.
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(b) Guarantees, insurance, and extensions of credit functions; competitive with Government-supported rates and terms and conditions of foreign exporting countries; survey and report; interest rates; private capital and small business concern encouragement; national interest determinations; loans to Union of Soviet Socialist Republics for fossil fuel research, etc.; defense article credit sales to less developed countries; amount outstanding.
(c) Guarantees, insurance, coinsurance, and reinsurance functions; fractional charge; aggregate outstanding amount; fees and premiums; issuance, service and adjustments by agents.

Sec.
635a. Management of Bank.
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(a) Congressional statement of policy.
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635k. Apportionment of losses incurred on loans, guarantees, and insurance; reimbursement; contingent obligations.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 22 sections 2394, 2398.

SUBCHAPTER I—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 635m of this title.

§ 635. Powers and functions of Bank

(a) General banking business; use of mails; publication of documents, reports, contracts, etc.; use of assets and allocated or borrowed money; payment of dividends

(1) There is created a corporation with the name Export-Import Bank of the United States, which shall be an agency of the United States of America. The objects and purposes of the bank shall be to aid in financing and to facilitate exports and imports and the exchange of commodities between the United States or any of its Territories or insular possessions and any foreign country or the agencies or nationals thereof. In connection with and in furtherance of its objects and purposes, the bank is authorized and empowered to do a general banking business except that of circulation; to receive deposits; to purchase, discount, rediscount, sell, and negotiate, with or without its endorsement or guaranty, and to guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness; to guarantee, insure, coinsure, and reinsure against political and credit risks of loss; to purchase, sell, and guarantee securities but not to purchase with its funds any stock in any other corporation except that it may acquire any such stock through the enforcement of any lien or pledge or otherwise to satisfy a previously contracted indebtedness to it; to accept bills and drafts drawn upon it; to issue letters of credit; to purchase and sell coin, bullion, and exchange; to borrow and to lend money; to perform any act herein authorized in participation with any other person, including any individual, partnership, corporation, or association; to adopt, alter, and use a corporate seal, which shall be judicially noticed; to sue and to be sued, to complain and to defend in any court of competent jurisdiction; to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States; and the enumeration of the foregoing powers shall not be deemed to exclude other powers necessary to the achievement of the objects and purposes of the bank. The bank shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Government. The Bank is authorized to publish or arrange for the publication of any documents, reports, contracts, or other material necessary in connection with or in furtherance of its objects and purposes without regard to the provisions of section 501 of title 44 whenever the Bank determines that publication in accordance with the provisions of such section would not be practicable. The bank is authorized to use all of its assets and all moneys which have been or may hereafter be allocated to or borrowed by it in the exercise of its functions. Net earnings of the bank after reasonable provision for possible losses shall be used for payment of dividends on capital stock. Any such dividends shall be deposited into the Treasury as miscellaneous receipts.

(2) Repealed. Pub. L. 93-646, § 13, Jan. 4, 1975, 88 Stat. 2337.

(b) Guarantees, insurance, and extensions of credit functions; competitive with Government-supported rates and terms and conditions of foreign exporting countries; survey and report; interest rates; private capital and small business concern encouragement; national interest determinations; loans to Union of Soviet Socialist Republics for fossil fuel research, etc.; defense article credit sales to less developed countries; amount outstanding

(1)(A) It is the policy of the United States to foster expansion of exports of goods and related services, thereby contributing to the promotion and maintenance of high levels of employment and real income and to the increased development of the productive resources of the

United States. To meet this objective, the Export-Import Bank is directed, in the exercise of its functions, to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are competitive with the Government-supported rates and terms and other conditions available for the financing of exports from the principal countries whose exporters compete with United States exporters. The Bank shall, in cooperation with the export financing instrumentalities of other governments, seek to minimize competition in government-supported export financing. The Bank shall, on a semiannual basis, report to the appropriate committees of Congress its actions in complying with these directives. In this report the Bank shall include a survey of all other major export-financing facilities available from other governments and government-related agencies through which foreign exporters compete with the United States exporters and indicate in specific terms the ways in which the Bank's rates, terms, and other conditions compare with those offered from such other governments directly or indirectly. Further, the Bank shall at the same time survey a representative number of United States exporters and United States commercial lending institutions which provide export credit to determine their experience in meeting financial competition from other countries whose exporters compete with United States exporters. The results of this survey shall be included as part of the semiannual report required by this subparagraph. The Bank shall also include in the semiannual report a description of each loan by the Bank involving the export of any product or service related to the production, refining or transportation of any type of energy or the development of any energy resource with a statement assessing the impact, if any, on the availability of such products, services, or energy supplies thus developed for use within the United States.

(B) It is further the policy of the United States that loans made by the Bank shall bear interest at rates determined by the Board of Directors of the Bank, taking into consideration the average cost of money to the Bank as well as the Bank's mandate to support United States exports at rates and on terms and conditions which are competitive with exports of other countries; that the Bank in the exercise of its functions should supplement and encourage, and not compete with, private capital; that the Bank shall accord equal opportunity to export agents and managers, independent export firms, and small commercial banks in the formulation and implementation of its programs; that the Bank shall give due recognition to the policy stated in section 631(a) of title 15 that "the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise" and that in furtherance of this policy the Board of Directors shall designate an officer of the Bank who shall be responsible to the President of the Bank for all matters concerning or affecting small business concerns and who, among other duties, shall be responsible for advising small businessmen of the opportunities for small business concerns in the functions of the Bank and for maintaining liaison with the Small Business Administration and other departments and agencies in matters affecting small business concerns; that loans, so far as possible consistent with the carrying out of the purposes of subsection (a) of this section, shall generally be for specific purposes, and, in the judgment of the Board of Directors, offer reasonable assurance of repayment; and that in authorizing any loan or guarantee, the Board of Directors shall take into account any serious adverse effect of such loan or guarantee on the competitive position of United States industry, the availability of materials which are in short supply in the United States, and employment in the United States.

(2) The Bank in the exercise of its functions shall not guarantee, insure, or extend credit, or participate in any extension of credit—

(A) in connection with the purchase or lease of any product by a Communist country (as defined in section 2370(f) of title 22), or agency, or national thereof, or

(B) in connection with the purchase or lease of any product by any other foreign country, or agency or national thereof, if the product to be purchased or leased by such other country, agency, or national is, to the knowledge of the Bank, principally for use in, or sale or lease to, a Communist country (as so defined),

unless the President determines that guarantees, insurance, or extensions of credit in connection therewith to such Communist or such other country or agency or national thereof would be in the national interest. The President shall make a separate determination with respect to each transaction in which the bank would extend a loan to such Communist or other country, or agency, or national thereof an [1] amount of $50,000,000 or more. Any determination required under the first sentence of this paragraph shall be reported to the Congress not later than the earlier of thirty days following the date of such determination, or the date on which the Bank takes final action on a transaction which is the first transaction involving such country or agency or national after January 4, 1975, unless a determination with respect to such country or agency or national has been made and reported prior to January 4, 1975. Any determination required to be made under the second sentence of this paragraph shall be reported to the Congress not later than the earlier of thirty days following the date of such determination or the date on which the Bank takes final action on the transaction involved.

(3) No loan or financial guarantee or combination thereof in an amount which equals or exceeds $60,000,000 shall be finally approved by the Board of Directors of the Bank, and no loan or financial guarantee or combination thereof which equals or exceeds $25,000,000 for the export of goods or services involving research, exploration, or production of fossil fuel energy resources in the Union of Soviet Socialist Republics shall be finally approved by the Board of Directors of the Bank, unless in each case the Bank has submitted to the Congress with respect to such loan, financial guarantee, or combination thereof, a detailed statement

[1] So in original. Probably should be "in an".

describing and explaining the transaction, at least 25 days of continuous session of the Congress prior to the date of final approval. For the purpose of the preceding sentence, continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of the 25 day period referred to in such sentence. Such statement shall contain—

(A) a brief description of the purposes of the transaction, the identity of the party or parties requesting the loan or financial guarantee, the nature of the goods or services to be exported, and the use for which the goods or services are to be exported; and

(B) a full explanation of the reasons for Bank financing of the transaction, the amount of the loan to be provided by the Bank, the approximate rate and repayment terms at which such loan will be made available and the approximate amount of the financial guarantee.

(4) The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with (A) the purchase of any product, technical data, or other information by a national or agency of any nation which engages in armed conflict, declared or otherwise, with the Armed Forces of the United States, or (B) the purchase by any nation (or national or agency thereof) of any product, technical data, or other information which is to be used principally by or in any such nation described in clause (A). The Bank shall not guarantee, insure, or extend credit, or participate in the extension of credit in connection with the purchase of any product, technical data, or other information by a national or agency of any nation if the President determines that any such transaction would be contrary to the national interest.

(5) The Bank shall not guarantee, insure, or extend credit, or participate in an extension of credit in connection with any credit sale of defense articles and defense services to any country designated under section 4916 of title 26 as an economically less developed country for purposes of the tax imposed by section 4911 of title 26. The prohibitions set forth in this paragraph shall not apply with respect to any transaction the consummation of which the President determines would be in the national interest and reports such determination (within thirty days after making the same) to the Senate and House of Representatives. In making any such determination the President shall take into account, among other considerations, the national interest in avoiding arms races among countries not directly menaced by the Soviet Union or by Communist China; in avoiding arming military dictators who are denying social progress to their own peoples; and in avoiding expenditures by developing countries of scarce foreign exchange needed for peaceful economic progress.

(6) In no event shall the Bank have outstanding at any time in excess of 7½ per centum of the limitation imposed by section 635e of this title for such guarantees, insurance, credits or participation in credits with respect to exports of defense articles and services to countries which, in the judgment of the Board of Directors of the Bank, are less developed.

(c) Guarantees, insurance, coinsurance, and reinsurance functions; fractional charge; aggregate outstanding amount; fees and premiums; issuance, service and adjustments by agents

(1) The Bank is authorized and empowered to charge against the limitations imposed by section 635e of this title, not less than 25 per centum of the related contractual liability which the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss. The aggregate amount of guarantees, insurance, coinsurance, and reinsurance which may be charged on this fractional basis pursuant to this section shall not exceed $20,000,000,000 outstanding at any one time. Fees and premiums shall be charged in connection with such contracts commensurate, in the judgment of the Bank, with risks covered.

(2) The Bank may issue such guarantees, insurance, coinsurance, and reinsurance to or with exporters, insurance companies, financial institutions, or others, or groups thereof, and where appropriate may employ any of the same to act as its agent in the issuance and servicing of such guarantees, insurance, coinsurance, and reinsurance, and the adjustment of claims arising thereunder.

(July 31, 1945, ch. 341, § 2, 59 Stat. 526; Dec. 28, 1945, ch. 602, 59 Stat. 666; June 9, 1947, ch. 101, § 1, 61 Stat. 130; May 21, 1953, ch. 64, § 1, 67 Stat. 28; Sept. 26, 1961, Pub. L. 87-311, 75 Stat. 673; Aug. 20, 1963, Pub. L. 88-101, § 1(a), 77 Stat. 128; Mar. 13, 1968, Pub. L. 90-267, § 1(a)–(c), 82 Stat. 47-49; Aug. 17, 1971, Pub. L. 92-126, § 1(b)(1), (2), (5), (6), 85 Stat. 345, 346; Jan. 4, 1975, Pub. L. 93-646, §§ 2-6, 13, 88 Stat. 2333-2335, 2337.)

REFERENCES IN TEXT

Sections 4911 and 4916 of title 26, referred to in subsec. (b)(5), were repealed by section 1904(a)(21) of Pub. L. 94-455, Oct. 4, 1976, 90 Stat. 1814.

CODIFICATION

Section 1(c) of Pub. L. 90-267 added pars. (2) to (5) of subsec. (b) and another section of such Pub. L. 90-267 also designated 1(c) substituted "$3,500,000,000" for "$2,000,000,000" in subsec. (c)(1). See, also, 1968 Amendments hereunder.

AMENDMENTS

1975—Subsec. (a)(1). Pub. L. 93-646, § 2, added provisions authorizing the Bank to guarantee, insure, coinsure, and reinsure against political and credit risks of loss, to represent itself or to contract for representation in all legal and arbitral proceedings outside the United States, and to publish any documents, reports, etc., without regard to section 501 of title 44, whenever compliance with such section would not be practicable.

Subsec. (a)(2). Pub. L. 93-646, § 13, eff. at the close of Sept. 30, 1976, repealed subsec. (a)(2), which related to inclusion of receipts and disbursements of the bank in the federal budget and exemption of such receipts and disbursements from budget limitations, to the transmittal to Congress of a budget for program activities and for administrative expenses of the bank, and to the annual report of the net lending of the bank.

Subsec. (b)(1). Pub. L. 93-646, § 3, designated existing provisions as subpars. (A) and (B), and as so designated, substituted provisions requiring a comparison of the rates and terms of the Bank with other countries for provisions requiring a report to include ways in which the Bank's terms are equal to or superior to those of other countries, and added provisions requiring the appointment of a Bank officer to be responsible for all matters affecting small business, and to act as liaison with the Small Business Administration and other agencies in matters affecting small business concerns, in order to carry out the policy of the Small Business Act.

Subsec. (b)(2). Pub. L. 93-646, § 4, added the provision requiring a separate Presidential determination of national interest with respect to each transaction over $50,000,000, and substituted the provision requiring a report to Congress either within 30 days of the President's finding or on the day the Bank takes final action on the proposed credit, whichever is earlier, for a provision requiring a report of his finding to Congress within thirty days after making such finding.

Subsec. (b)(3). Pub. L. 93-646, § 5, added subsec. (b)(3). Former subsec. (b)(3) was redesignated as (b)(4).

Subsec. (b)(4) to (6). Pub. L. 93-646, § 5, redesignated former subsecs. (b)(3), (4), and (5) as (b)(4), (5) and (6), respectively.

Subsec. (c)(1). Pub. L. 93-646, § 6, removed the $10 billion limit on the Bank's insurance authority, and increased the Bank's authority to charge such guarantees and insurance on a fractional charge basis from $10 billion to $20 billion.

1971—Subsec. (a). Pub. L. 92-126, § 1(b)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(1). Pub. L. 92-126, § 1(b)(6), added provisions declaring the policy of the United States to be to foster expansion of goods and related services, contributing to the proposition and maintenance of high levels of employment and real income and to the increased development of the productive resources of the United States and laid down directives to achieve this objective.

Subsec. (b)(3). Pub. L. 92-126, § 1(b)(5), substituted provisions prohibiting the Bank from extending assistance in export sales to any nation which engages in armed conflict with the United States or to any other nation when the export is to be used principally by or in any nation which engages in armed conflict with the United States and further prohibiting such assistance to any export sales which the President determines would be contrary to the national interest for provisions placing limitations on the Bank's activity in connection with any nation which supplies goods or assistance to a country with whom the United States is engaged in armed conflict.

Subsec. (c)(1). Pub. L. 92-126, § 1(b)(2), increased the amount of insurance outstanding at any one time from "$3,500,000,000" to "$10,000,000,000".

1968—Subsec. (a). Pub. L. 90-267, § 1(a), changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

Subsec. (b)(1). Pub. L. 90-267, § 1(b), designated existing provisions as par. (1) and required the Board of Directors when authorizing loans to take into account the possible adverse effects upon the economy of the United States.

Subsec. (b)(2) to (5). Pub. L. 90-267, § 1(c), added pars. (2) to (5).

Subsec. (c)(1). Pub. L. 90-267, § 1(a), (c), increased amount of insurance outstanding at any one time from $2,000,000,000" to $3,500,000,000" and changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

1963—Subsec. (c)(1). Pub. L. 88-101 substituted "$2,000,000,000" for "$1,000,000,000".

1961—Subsec. (c). Pub. L. 87-311 amended subsection generally, and among other changes, authorized the Bank to guarantee, insure, coinsure, and reinsure United States exporters and foreign exporters doing business in the United States, increased the maximum amount of insurance, etc., outstanding at any one time to $1,000,000,000, limited the types of risks the Bank would insure, etc., to political and credit risks, required reserves to be maintained at not less than 25 per centum of the related contractual liability of the Bank, provided that for contracts of insurance, etc., only the Bank's liabilities represented by the aforementioned reserves shall be considered for purposes of applying the limitations of section 635e of this title, required the charging of fees and premiums, and authorized issuance of insurance, etc., to exporters, insurance companies, financial institutions, or others, and where appropriate, to employ any of the same as agent, and eliminated provisions authorizing insurance for the benefit of United States citizens against loss of tangible personal property of United States origin, exported from the United States, and located in a friendly country, from hostile or warlike actions including internal strife, or from governmental confiscation or expropriation, to the extent owned by the assured or constituting security for obligations owed the assured, limiting the issuance of insurance to the extent that it could not be obtained from private companies authorized to do business in the United States, or from United States Government agencies providing marine or air war-risk insurance, permitting reinsurance of companies authorized to do an insurance business in the United States, or to use such company or companies as agent, and limiting the term of coverage of any insurance issued to one year, subject to renewals or extensions, from time to time, of one year periods.

1953—Subsec. (c). Act May 21, 1953, added subsec. (c).

1947—Subsec. (a). Act June 9, 1947, provided for the reincorporation of the Bank as a corporate agency of the United States and specifically provided for the following powers which the bank formerly possessed by implication: (1) to acquire stock through the enforcement of any lien or pledge or to satisfy an indebtedness; (2) to sue and be sued, to complain and defend in any court of competent jurisdiction; (3) to use the United States mails as any other executive department; and (4) after provision for possible losses to use the net earnings as dividends on capital stock and to deposit said dividends as miscellaneous receipts in the Treasury.

1945—Subsec. (a). Act Dec. 28, 1945, inserted "(or the Philippine Islands)" following "any foreign country".

Short Title of 1975 Amendment

Section 1 of Pub. L. 93-646 provided that: "This Act [which amended this section and sections 82 and 635d to 635g of this title, and enacted provisions set out as notes under this section] may be cited as the 'Export-Import Bank Amendments of 1974'."

Short Title of 1971 Amendment

Section 1(a) of Pub. L. 92-126 provided: "This Act [amending sections 635, 635e and 635f of this title and enacting provisions set out as notes under section 95a of this title] may be cited as the 'Export Expansion Finance Act of 1971'."

Short Title

Section 1 of act July 31, 1945, provided: "That this Act [this subchapter] may be cited as the 'Export-Import Bank Act of 1945'."

Board of Directors

A Board of Directors was reestablished for the Export-Import Bank of Washington by section 1 of act Aug. 9, 1954, ch. 660, 68 Stat. 677, amending section 635a of this title. The Board had previously been abolished and its functions transferred to the Managing Director of the Bank by Reorg. Plan No. 5 of 1953, eff. June 30, 1953, 18 F.R. 3741, 67 Stat. 637, set out as a note under section 635a of this title. The 1953 Reorg. Plan was superseded by sections 1, 4 of act Aug. 9, 1954. See section 635a of this title and 1954 Amend-

ment and Effective Date of 1954 Amendment notes thereunder.

HISTORY OF BANK

The Export-Import Bank of Washington was organized as a District of Columbia banking corporation under Ex. Ord. No. 6581, Feb. 2, 1934. It was continued as an agency of the United States by act Jan. 31, 1935, ch. 2, § 9, 49 Stat. 4, formerly set out as section 713b of Title 15, as amended by acts Jan. 26, 1937, ch. 6, § 2(a), 50 Stat. 5; Mar. 4, 1939, ch. 5, § 1(b)(c), 53 Stat. 510; Mar. 2, 1940, ch. 34, 54 Stat. 38; Sept. 26, 1940, ch. 734, § 3, 54 Stat. 962, and repealed by section 10 of act July 31, 1945. The Second Export-Import Bank of Washington, D.C., was established under Ex. Ord. No. 6638, Mar. 9, 1934. Its commitments were transferred to the Export-Import Bank of Washington and it was abolished by Ex. Ord. No. 7365, May 7, 1936, 1 F.R. 372. The "Export-Import Bank of Washington" was renamed the "Export-Import Bank of the United States". See the 1968 Amendment note under this section.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Export-Import Bank of the United States, see Parts 1, 16, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

RESTRICTIONS ON LOANS

Section 12 of Pub. L. 93-646 provided that: "Until such time as the Trade Reform Act is approved by the Congress and signed into law by the President, no loan, guarantee, insurance, or credit shall be extended by the Export-Import Bank of the United States to the Union of Soviet Socialist Republics." [The Trade Reform Act, Pub. L. 93-618, Jan. 3, 1975, 88 Stat. 1978, was signed into law Jan. 3, 1975.]

CROSS REFERENCES

Financial control of Corporation, see section 841 et seq. of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 635i, 635j, 635m of this title; title 22 section 2357.

§ 635a. Management of Bank

(a) Establishment as independent agency

The Export-Import Bank of the United States shall constitute an independent agency of the United States and neither the Bank nor any of its functions, powers, or duties shall be transferred to or consolidated with any other department, agency, or corporation of the Government unless the Congress shall otherwise by law provide.

(b) President and First Vice President of the Bank; appointment; duties

There shall be a President of the Export-Import Bank of the United States, who shall be appointed by the President of the United States by and with the advice and consent of the Senate, and who shall serve as chief executive officer of the Bank. There shall be a First Vice President of the Bank, who shall be appointed by the President of the United States by and with the advice and consent of the Senate, who shall serve as President of the Bank during the absence or disability of or in the event of a vacancy in the office of President of the Bank, and who shall at other times perform such functions as the President of the Bank may from time to time prescribe.

(c) Board of Directors; composition; oath; terms; duties; quorum; bylaws

There shall be a Board of Directors of the Bank consisting of the President of the Export-Import Bank of the United States, who shall serve as Chairman, the First Vice President who shall serve as Vice Chairman, and three additional persons appointed by the President of the United States by and with the advice and consent of the Senate. Of the five members of the Board, not more than three shall be members of any one political party. Before entering upon his duties, each of the directors shall take an oath faithfully to discharge the duties of his office. Terms of the directors shall be at the pleasure of the President of the United States, and the directors, in addition to their duties as members of the Board, shall perform such additional duties and may hold such other offices in the administration of the Bank as the President of the Bank may from time to time prescribe. A majority of the Board of Directors shall constitute a quorum. The Board of Directors shall adopt, and may from time to time amend, such bylaws as are necessary for the proper management and functioning of the Bank, and shall, in such bylaws, designate the vice presidents and other officers of the Bank and prescribe their duties.

(d) Advisory Committee; appointment; composition; meetings; per diem allowances and expenses

There shall be an Advisory Committee of nine members, appointed by the Board of Directors on the recommendation of the President of the Bank, who shall be broadly representative of production, commerce, finance, agriculture and labor. The Advisory Committee shall meet one or more times per year, on the call of the President of the Bank, to advise with the Bank on its program. Members, not otherwise in the regular full-time employ of the United States, may be compensated at rates not exceeding the per diem equivalent of the rate for grade 18 of the General Schedule (5 U.S.C. 5332) for each day spent in travel or attendance at meetings of the Committee, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for individuals in the Government service employed intermittently.

(e) Conflicting personal interests

No director, officer, attorney, agent, or employee of the Bank shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his personal interests, or the interests of any corporation, partnership or association in which he is directly or indirectly personally interested.

(July 31, 1945, ch. 341, § 3, 59 Stat. 527; Aug. 9, 1954, ch. 660, § 1, 68 Stat. 677; Mar. 13, 1968, Pub. L. 90-267, § 1(a), (d), 82 Stat. 47, 49.)

CODIFICATION

Provisions of subsecs. (b) and (c) of this section which prescribed the annual compensation of the President, the First Vice President, and other members of the Board of Directors, were omitted to conform to the provisions of the Federal Executive Salary

Schedule. See section 5311 et seq. of Title 5, Government Organization and Employees.

Former subsec. (e) provided for management of the affairs of the Bank by the former Board of Trustees until Oct. 31, 1945, or until at least two members of the Board of Directors qualified as such, whichever was earlier.

AMENDMENTS

1968—Subsecs. (a) to (c). Pub. L. 90-267, § 1(a), changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

Subsec. (d). Pub. L. 90-267, § 1(d), substituted provisions for compensation of members, not otherwise in the regular full-time employ of the United States, at rates not exceeding the per diem equivalent of the rate for grade 18 of the General Schedule for each day spent in travel or attendance at meetings of the Committee, and for allowance of travel expenses, when serving away from home or regular place of business, as authorized by section 5703 of Title 5 for individuals in the Government service employed intermittently for former provisions for allowance for attendance at meetings and travel expenses of $50 and $10, respectively.

1954—Act Aug. 9, 1954, amended section generally to provide for the independent management of the Bank under a Board of Directors and for the appointment of a President and First Vice President of the Bank.

EFFECTIVE DATE OF 1954 AMENDMENT

Section 4 of act Aug. 9, 1954, provided that: "The provisions of this Act for the appointment of a President and a First Vice President of the Bank and the members of the Board of Directors shall be effective upon its enactment [Aug. 9, 1954]. The remaining provisions of this Act shall become effective when the President and First Vice President of the Bank and one other member of the Board of Directors initially appointed hereunder enter upon office, and shall thereupon supersede Reorganization Plan No. 5 of 1953 [set out as a note under this section]."

REPEALS

Act Oct. 15, 1949, ch. 695, §§ 4, 5(a), 63 Stat. 880, formerly cited to the text, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

BOARD OF DIRECTORS; ADVISORY COMMITTEE

A Board of Directors and an Advisory Committee reestablished for the Export-Import Bank of Washington, see note under section 635 of this title.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

TERMINATION OF FOREIGN ECONOMIC ADMINISTRATION

The Foreign Economic Administration and the office of its Administrator were terminated by Ex. Ord. No. 9630, Sept. 27, 1945, 10 F.R. 12245.

REORGANIZATION PLAN NO. 5 OF 1953

18 F.R. 3741, 67 Stat. 637

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 30, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [now covered by sections 901 to 913 of Title 5, Government Organization and Employees].

THE EXPORT-IMPORT BANK OF WASHINGTON [UNITED STATES]

§ 1. THE MANAGING DIRECTOR

There is hereby established the office of Managing Director of the Export-Import Bank of Washington, [now the Export-Import Bank of the United States], hereinafter referred to as the "Managing Director." The Managing Director shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate of $17,500 per annum.

§ 2. DEPUTY DIRECTOR

There is hereby established the office of Deputy Director of the Export-Import Bank of Washington. The Deputy Director shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate of $16,000 per annum, shall perform such functions as the Managing Director may from time to time prescribe, and shall act as Managing Director during the absence or disability of the Managing Director or in the event of a vacancy in the office of Managing Director.

§ 3. ASSISTANT DIRECTOR

There is hereby established the office of Assistant Director of the Export-Import Bank of Washington. The Assistant Director shall be appointed by the Managing Director under the classified civil service, shall receive compensation at the rate now or hereafter fixed by law for grade GS-18 of the general schedule established by the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5], and shall perform such functions as the Managing Director may from time to time prescribe.

§ 4. FUNCTIONS TRANSFERRED TO THE MANAGING DIRECTOR

All functions of the Board of Directors of the Export-Import Bank of Washington are hereby transferred to the Managing Director.

§ 5. GENERAL POLICIES

The National Advisory Council on International Monetary and Financial Problems shall from time to time establish general lending and other financial policies which shall govern the Managing Director in the conduct of the lending and other financial operations of the bank.

§ 6. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Managing Director may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Managing Director by any other officer, or by any agency or employee, of the bank.

§ 7. ABOLITION

The following are hereby abolished: (1) The Board of Directors of the Export-Import Bank of Washington, including the offices of the members thereof provided for in section 3(a) of the Export-Import Bank Act of 1945, as amended [subsection (a) of this section]; (2) the Advisory Board of the Bank, together with the functions of the said Advisory Board; and (3) the function of the Chairman of the Board of Directors of the Export-Import Bank of Washington of being a member of the National Advisory Council on International Monetary and Financial Problems. The Managing Director shall make such provisions as may be necessary for winding up any outstanding affairs of the said abolished boards and offices not otherwise provided for in this reorganization plan.

§ 8. Effective Date

Sections 3 to 7, inclusive, of this reorganization plan shall become effective when the Managing Director first appointed hereunder enters upon office pursuant to the provisions of this reorganization plan.

§ 635b. Capitalization of Bank; method of capital stock payments; public-debt transactions; issuance of stock certificates

The Export-Import Bank of the United States shall have a capital stock of $1,000,000,000 subscribed by the United States. Payment for $1,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the common stock issued prior to July 31, 1945, by the Bank and purchased by the United States. Payment for $174,000,000 of such capital stock shall be made by the surrender to the Bank for cancellation of the preferred stock heretofore issued by the Bank and purchased by the Reconstruction Finance Corporation. Payment for the $825,000,000 balance of such capital stock shall be subject to call at any time in whole or in part by the Board of Directors of the Bank. For the purpose of making payments of such balance, the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payment under this section of the subscription of the United States to the Bank and repayments thereof shall be treated as public-debt transactions of the United States. Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as he may designate from time to time, to the extent of the common and preferred stock surrendered and other payments made for the capital stock of the Bank under this section.

(July 31, 1945, ch. 341, § 4, 59 Stat. 528; Mar. 13, 1968, Pub. L. 90-267, § 1(a), 82 Stat. 47.)

References in Text

The Second Liberty Bond Act, as amended, referred to in text, is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31 and Tables volume.

That Act, referred to in the text, refers to the Second Liberty Bond Act, as amended.

Amendments

1968—Pub. L. 90-267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

Board of Directors

A Board of Directors reestablished for the Export-Import Bank of Washington, see note under section 635 of this title.

Abolition of Reconstruction Finance Corporation

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Reconstruction Finance Corporation.

§ 635c. Reimbursement of Reconstruction Finance Corporation for cancellation of Bank stock; public debt transactions; payment of accumulated dividends

(a) The Secretary of the Treasury shall pay to the Reconstruction Finance Corporation the par value of the preferred stock upon its surrender to the Bank for cancellation. For the purpose of making such payments to the Reconstruction Finance Corporation the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payment under this subsection to the Reconstruction Finance Corporation shall be treated as public-debt transactions of the United States.

(b) Any dividends on the preferred stock accumulated and unpaid to the date of its surrender for cancellation shall be paid to the Reconstruction Finance Corporation by the Bank.

(July 31, 1945, ch. 341, § 5, 59 Stat. 528.)

References in Text

The Second Liberty Bond Act, as amended, referred to in subsec. (a), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text not set out under section 774 of Title 31 and Tables volume.

That Act, referred to in subsec. (a), refers to the Second Liberty Bond Act, as amended.

Abolition of Reconstruction Finance Corporation

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Reconstruction Finance Corporation.

Section Referred to in Other Sections

This section is referred to in title 22 section 2357.

§ 635d. Issuance of debentures, bonds, etc.; obligations redeemable; payment of interest; obligations purchasable by Secretary of Treasury; public-debt transactions

The Export-Import Bank of the United States is authorized to issue from time to time for purchase by the Secretary of the Treasury its notes, debentures, bonds, or other obligations; but the aggregate amount of such obligations outstanding at any one time shall not exceed $6,000,000,000. Such obligations shall be redeemable at the option of the bank before maturity in such manner as may be stipulated in such obligations and shall have such maturity as may be determined by the Board of Directors of the bank with the approval of the Secretary of the Treasury. Each such Bank obligation issued to the Treasury after January 4, 1975, shall bear interest at a rate not less than the current average yield on outstanding marketable obligations of the United States of comparable maturity during the month preceding the issuance of the obligation of the Bank as determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Bank issued hereunder and for such purpose the Secretary of the Treasury is authorized to

use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payment under this section of the purchase price of such obligations of the Bank and repayments thereof by the Bank shall be treated as public-debt transactions of the United States.

(July 31, 1945, ch. 341, § 6, 59 Stat. 528; June 9, 1947, ch. 101, § 2, 61 Stat. 131; Oct. 3, 1951, ch. 445, § 1(a), 65 Stat. 367; Aug. 9, 1954, ch. 660, § 3(a), 68 Stat. 678; May 22, 1958, Pub. L. 85-424, § 1(1), 72 Stat. 133; Mar. 13, 1968, Pub. L. 90-267, § 1(a), 82 Stat. 47; Jan. 4, 1975, Pub. L. 93-646, § 7, 88 Stat. 2336.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in text, is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text not set out under section 774 of Title 31 and Tables volume.

That Act, referred to in the text, refers to the Second Liberty Bond Act, as amended.

AMENDMENTS

1975—Pub. L. 93-646 substituted provision making mandatory that each Bank obligation bear interest at a rate not less than the current average yield on outstanding obligations of comparable maturity, for provision requiring that only the current average rate be taken into consideration.

1968—Pub. L. 90-267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

1958—Pub. L. 85-424 substituted "$6,000,000,000" for "$4,000,000,000".

1954—Act Aug. 9, 1954, substituted "$4,000,000,000" for "three and one-half times the authorized capital stock of the Bank".

1951—Act Oct. 3, 1951, substituted "three and one-half" for "two and one-half".

1947—Act June 9, 1947, struck out "and bear such rate of interest" preceding "as may be determined" in the second sentence and added the third sentence relating to the rate of interest on obligations.

EFFECTIVE DATE OF 1954 AMENDMENT

For effective date of amendment by act Aug. 9, 1954, see note under section 635a of this title.

BOARD OF DIRECTORS

A Board of Directors reestablished for the Export-Import Bank of Washington, see note under section 635 of this title.

§ 635e. Restrictions on amount outstanding; limitations on amount and purposes of loans and financial guarantees for exports to Union of Soviet Socialist Republics; Presidential increase of limitations

(a) The Export-Import Bank of the United States shall not have outstanding at any one time loans, guaranties, and insurance in an aggregate amount in excess of $25,000,000,000.

(b) After January 4, 1975, the Bank shall not approve any loans or financial guarantees, or combination thereof, in connection with exports to the Union of Soviet Socialist Republics in an aggregate amount in excess of $300,000,000. No such loan or financial guarantee, or combination thereof, shall be for the purchase, lease, or procurement of any product or service for production (including processing and distribution) of fossil fuel energy resources. Not more than $40,000,000 of such aggregate amount shall be for the purchase, lease, or procurement of any product or service which involves research or exploration of fossil fuel energy resources. The President may establish a limitation in excess of $300,000,000 if he determines that such higher limitation is in the national interest and if he reports such determination to the Congress together with the reasons therefor, including the amount of such proposed increase which would be available for the export of products and services for research, exploration, and production (including processing and distribution) of fossil fuel energy resources in the Union of Soviet Socialist Republics, and if, after the receipt of such report together with the reasons, the Congress adopts a concurrent resolution approving such determination.

(July 31, 1945, ch. 341, § 7, 59 Stat. 529; Oct. 3, 1951, ch. 445, § 1(b), 65 Stat. 367; May 21, 1953, ch. 64, § 2, 67 Stat. 28; Aug. 9, 1954, ch. 660, § 3(b), 68 Stat. 678; May 22, 1958, Pub. L. 85-424, § 1(2), 72 Stat. 133; Aug. 20, 1963, Pub. L. 88-101, § 1(b), 77 Stat. 128; Mar. 13, 1968, Pub. L. 90-267, § 1(a), (e), 82 Stat. 47, 49; Aug. 17, 1971, Pub. L. 92-126, § 1(b)(3), 85 Stat. 345; Jan. 4, 1975, Pub. L. 93-646, § 8, 88 Stat. 2336.)

AMENDMENTS

1975—Subsec. (a). Pub. L. 93-646, § 8(1), (2), designated existing provisions as subsec. (a), and as so designated, substituted "$25,000,000,000" for "$20,000,000,000", respectively.

Subsec. (b). Pub. L. 93-646, § 8(3), added subsec. (b).

1971—Pub. L. 92-126 substituted "$20,000,000,000" for "$13,500,000,000".

1968—Pub. L. 90-267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States" and substituted "$13,500,000,000" for "$9,000,000,000", respectively.

1963—Pub. L. 88-101 substituted "$9,000,000,000" for "$7,000,000,000".

1958—Pub. L. 85-424 substituted "$7,000,000,000" for "$5,000,000,000".

1954—Act Aug. 9, 1954, substituted "$5,000,000,000" for the words "four and one-half times the authorized capital stock of the Bank".

1953—Act May 21, 1958, substituted "loans, guaranties, and insurance" for "loans and guaranties".

1951—Act Oct. 3, 1951, substituted "four and one-half" for "three and one-half".

EFFECTIVE DATE OF 1954 AMENDMENT

For effective date of amendment by act Aug. 9, 1954, see note under section 635a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 635, 635j of this title; title 22 section 2392.

§ 635f. Termination date of Bank's functions; exceptions; liquidation

Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes until the close of business on June 30, 1978, but the provisions of this section shall not be construed as preventing the bank from acquiring obligations prior to such date which mature subsequent to such date or from assuming prior to such date liability as guarantor, endorser, or acceptor of obligations which mature subsequent to such date or from issu-

ing, either prior or subsequent to such date, for purchase by the Secretary of the Treasury or any other purchasers, its notes, debentures, bonds, or other obligations which mature subsequent to such date or from continuing as a corporate agency of the United States and exercising any of its functions subsequent to such date for purposes of orderly liquidation, including the administration of its assets and the collection of any obligations held by the bank.

(July 31, 1945, ch. 341, § 8, 59 Stat. 529; June 9, 1947, ch. 101, § 3, 61 Stat. 131; Oct. 3, 1951, ch. 445, § 1(c), 65 Stat. 367; June 17, 1957, Pub. L. 85-55, 71 Stat. 82; Aug. 20, 1963, Pub. L. 88-101, § 2, 77 Stat. 128; Mar. 13, 1968, Pub. L. 90-267, § 1(a), (f), 82 Stat. 47, 49; Aug. 17, 1971, Pub. L. 92-126, § 1(b)(4), 85 Stat. 345; July 4, 1974, Pub. L. 93-331, 88 Stat. 289; Aug. 14, 1974, Pub. L. 93-374, 88 Stat. 445; Sept. 30, 1974, Pub. L. 93-425, 88 Stat. 1166; Oct. 18, 1974, Pub. L. 93-450, 88 Stat. 1368; Jan. 4, 1975, Pub. L. 93-646, § 9, 88 Stat. 2336.)

AMENDMENTS

1975—Pub. L. 93-646 substituted "June 30, 1978" for "November 30, 1974".

1974—Pub. L. 93-450 extended termination date from October 15, 1974, to November 30, 1974.

Pub. L. 93-425 extended termination date from September 30, 1974, to October 15, 1974.

Pub. L. 93-374 extended termination date from July 30, 1974, to September 30, 1974.

Pub. L. 93-331 extended termination date from June 30, 1974, to July 30, 1974.

1971—Pub. L. 92-126 substituted "June 30, 1974" for "June 30, 1973" and "Secretary of the Treasury or any other purchasers" for "Secretary of the Treasury".

1968—Pub. L. 90-267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States" and extended termination date from June 30, 1968, to June 30, 1973, respectively.

1963—Pub. L. 88-101 extended the termination date from June 30, 1963, to June 30, 1968.

1957—Pub. L. 85-55 extended termination date from June 30, 1958, to June 30, 1963.

1951—Act Oct. 3, 1951, extended termination date from June 30, 1953, to June 30, 1958.

1947—Act June 9, 1947, struck out former section and inserted present section to provide for the termination of the Bank as of June 30, 1953, and its orderly liquidation thereafter.

FINANCIAL ASSISTANCE TO THE UNION OF SOVIET SOCIALIST REPUBLICS

Section 1 of Pub. L. 93-450 provided in part that the Bank shall not authorize any financial assistance to the Union of Soviet Socialist Republics during the life of Pub. L. 93-450, which extended the termination date from Oct. 15, 1974, to Nov. 30, 1974.

§ 635g. Report to Congress; time for submission; contents

(a) The Export-Import Bank of the United States shall transmit to the Congress annually a complete and detailed report of its operations. Such report shall be as of the close of business on the last day of each fiscal year.

(b) The report shall contain a description of actions taken by the Bank in pursuance of the policy of aiding, counseling, assisting, and protecting, insofar as is possible, the interests of small business concerns.

(July 31, 1945, ch. 341, § 9, 59 Stat. 529; Mar. 13, 1968, Pub.L. 90-267, § 1(a), 82 Stat. 47; Jan. 4, 1975, Pub.L. 93-646, § 10, 88 Stat. 2336.)

AMENDMENTS

1975—Pub. L. 93-646 designated existing provisions as subsec. (a), and, as so designated, substituted provisions calling for an annual report as of the close of business on the last day of each fiscal year, for provisions calling for a semiannual report as of the close of business on June 30 and Dec. 31 of each year, and added subsec. (b).

1968—Pub. L. 90-267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

SUBMISSION OF ANNUAL REPORT

Pub. L. 89-348, § 2(9), Nov. 8, 1965, 79 Stat. 1312, modified the requirement relating to the submission of reports to Congress by providing for annual reports instead of semiannual reports.

§ 635h. Exemption from prohibition of section 955 of title 18

Notwithstanding the provisions of section 955 of title 18, any person, including any individual, partnership, corporation, or association, may act for or participate with the Export-Import Bank of the United States in any operation or transaction, or may acquire any obligation issued in connection with any operation or transaction, engaged in by the Bank.

(July 31, 1945, ch. 341, § 11, 59 Stat. 529; Sept. 3, 1954, ch. 1263, § 29, 68 Stat. 1237; Mar. 13, 1968, Pub. L. 90-267, § 1(a), 82 Stat. 47.)

AMENDMENTS

1968—Pub. L. 90-267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

1954—Act Sept. 3, 1954, substituted "section 955 of title 18" for "section 804a of title 31".

§ 635i. Assumption of rights and liabilities of existing Bank; transfer of funds, property, personnel, etc.; continuation of Directors in office

The Export-Import Bank of the United States created by section 635(a) of this title shall by virtue of this subchapter succeed to all of the rights and assume all of the liabilities of Export-Import Bank of Washington, a District of Columbia corporation, and any outstanding capital stock of the District of Columbia corporation shall be deemed to have been issued by and shall be capital stock of the corporation created by this subchapter and all of the personnel, property, records, funds (including all unexpended balances of appropriations, allocations, or other funds now available), assets, contracts, obligations, and liabilities of the District of Columbia corporation are transferred to, accepted, and assumed by the corporation created by this subchapter without the necessity of any act or acts on the part of the corporation created by this subchapter or of the District of Columbia corporation, their officers, employees, or agents or of any other department or agency of the United States to carry out the purposes and it shall be unnecessary to take any further action to effect the dissolution or liquidation of Export-Import Bank of Washington, a District of Columbia corporation. The members of the Board of Directors of the District of Columbia corporation, appointed pursuant to the provisions of this subchapter, shall, during the unexpired portion of the terms for which they were appointed, continue in office as members of the

Board of Directors of the corporation created by this subchapter.

(July 31, 1945, ch. 341, § 12, as added June 9, 1947, ch. 101, § 4, 61 Stat. 131, and amended Mar. 13, 1968, Pub. L. 90-267, § 1(a), 82 Stat. 47.)

REFERENCES IN TEXT

Created by section 635(a) of this title, referred to in text, in the original read "created hereby".

AMENDMENTS

1968—Pub. L. 90-267 changed name of "Export-Import Bank of Washington" to "Export-Import Bank of the United States".

BOARD OF DIRECTORS

A Board of Directors reestablished for the Export-Import Bank of Washington, see note under section 635 of this title.

HISTORY OF BANK

For history of Export-Import Bank, see note under section 635 of this title.

SUBCHAPTER II—EXPORT FINANCING

§ 635j. Export financing program to foster foreign trade and commercial interest of the United States

(a) Congressional statement of policy

It is the policy of the Congress that the Export-Import Bank of the United States should facilitate through loans, guarantees, and insurance (including coinsurance and reinsurance) those export transactions which, in the judgment of the Board of Directors of the Bank, offer sufficient likelihood of repayment to justify the Bank's support in order to actively foster the foreign trade and long-term commercial interest of the United States.

(b) Designation of transactions on books of the Bank; limitation on commitments

The bank shall specially designate loans, guarantees, and insurance on the books of the Bank made under authority of this subchapter. In connection with guarantees and insurance, not less than 25 per centum of the related contractual liability of the Bank shall be taken into account for the purpose of applying the limitation imposed by section 635e of this title; but the full amount of the related contractual liability of such guarantees and insurance shall be taken into account for the purpose of applying the limitation in section 635(c)(1) of this title, concerning the amount of guarantees and insurance the Bank may have outstanding at any one time thereunder. The aggregate amount of loans plus 25 per centum of the contractual liability of guarantees and insurance outstanding at any one time under this subchapter shall not exceed $500,000,000.

(c) Reports to Congress

The Board of Directors of the Bank shall submit to the Congress for the calendar quarter ending September 30, 1968, and for each calendar quarter thereafter a report of all actions taken under authority of this subchapter during such quarter.

(Pub. L. 90-390, § 1, July 7, 1968, 82 Stat. 296.)

EX. ORD. NO. 11420. EXPORT EXPANSION ADVISORY COMMITTEE

Ex. Ord. No. 11420, July 31, 1968, 33 F.R. 10997, provided:

WHEREAS foreign trade is an essential and continuing element in sustaining the growth, strength, and prosperity of our economy, contributes to the improvement of our balance of payments, and fosters the long-term commercial interest of the United States; and

WHEREAS, on March 20, 1968, I requested the Congress to empower the Export-Import Bank of the United States to use up to $500,000,000 of its loan, guarantee, and insurance authority to finance a broadened program to sell American goods in foreign markets; and

WHEREAS the Congress has authorized the Bank to extend loans, guarantees, and insurance which, in the judgment of the Board of Directors of the Bank, offer sufficient likelihood of repayment to justify the Bank's support in order to actively foster the foreign trade and long-term commercial interest of the United States; and

WHEREAS it is desirable and appropriate that guidance concerning the commercial interests and the balance of payments objectives of the United States be provided to the Board of Directors of the Bank in the use of such loan, guarantee, and insurance authority allocated to finance export expansion, and I have stated that I would establish an Export Expansion Advisory Committee to provide such guidance to the Board of Directors of the Bank:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. *Establishment of Advisory Committee.* (a) There is hereby established the Export Expansion Advisory Committee (hereinafter referred to as "the Committee").

(b) The Committee shall be composed of the following members: the Secretary of Commerce, who shall be Chairman of the Committee, the Secretary of the Treasury, the Secretary of State, and the President and Chairman of the Board of the Export-Import Bank of the United States.

SEC. 2. *Functions of the Committee.* The Committee shall review and make recommendations concerning applications and proposals for loans, guarantees, and insurance to be charged against allocations made to finance export expansion and shall provide guidance to the Board of Directors of the Bank concerning the use of such allocations with the view to fostering the foreign trade and long-term commercial interest of the United States.

SEC. 3. *Construction.* Nothing in this order shall be construed to abrogate, modify, or restrict any function vested by law in, or assigned pursuant to law to, any Federal agency or any officer thereof or to any Federal interagency council or committee. As used herein the term "any Federal agency" includes any executive department and any other executive agency.

LYNDON B. JOHNSON.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 635k. Apportionment of losses incurred on loans, guarantees, and insurance; reimbursement; contingent obligations

In the event of any losses, as determined by the Board of Directors of the Bank, incurred on

loans, guarantees, and insurance extended under this subchapter, the first $100,000,000 of such losses shall be borne by the Bank; the second $100,000,000 of such losses shall be borne by the Secretary of the Treasury; and any losses in excess thereof shall be borne by the Bank. Reimbursement of the Bank by the Secretary of the Treasury of the amount of losses which are to be borne by the Secretary of the Treasury as aforesaid shall be from funds made available pursuant to section 635*l* of this title. All guarantees and insurance issued by the Bank shall be considered contingent obligations backed by the full faith and credit of the Government of the United States of America.

(Pub. L. 90-390, § 2, July 7, 1968, 82 Stat. 297.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 635*l* of this title.

§ 635*l*. Authorization for appropriation of funds for losses

There are hereby authorized to be appropriated to the Secretary of the Treasury without fiscal year limitation $100,000,000 to cover the amount of any losses which are to be borne by the Secretary of the Treasury as provided in section 635k of this title.

(Pub. L. 90-390, § 3, July 7, 1968, 82 Stat. 297.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 635k of this title; title 22 section 2392.

§ 635m. Loans, guarantees, and insurance subject to the provisions of this chapter

Nothing in this subchapter shall be construed as a limitation on the powers of the Bank under subchapter I of this chapter; and except as to the standard of reasonable assurance of repayment required under section 635(b)(1) of this title, all loans, guarantees, and insurance extended hereunder shall be subject to the provisions of subchapter I of this chapter, to the policies of the Bank with respect to terms of repayment, interest rates, fees, and premiums applicable to loans, guarantees, and insurance extended under subchapter I of this chapter.

(Pub. L. 90-390, § 4, July 7, 1968, 82 Stat. 297.)

§ 635n. Prohibition of loans, guarantees, and insurance as to sales of defense articles or services

The Bank shall not extend loans, guarantees, or insurance under this subchapter in connection with the sale of defense articles or defense services.

(Pub. L. 90-390, § 5, July 7, 1968, 82 Stat. 297.)

CHAPTER 7—FARM CREDIT ADMINISTRATION

CODIFICATION

The bulk of this chapter was repealed by Pub. L. 92-181, § 5.26(a), Dec. 10, 1971, 85 Stat. 625, which completely rewrote the farm credit laws and represented a fundamental reworking of the statutory basis for the farm credit system. The farm credit system is now covered in chapter 23 (§ 2001 et seq.) of this title. See notes under section 2001 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 709.

FARM CREDIT ADMINISTRATION; GENERAL ADMINISTRATIVE PROVISIONS

§§ 636 to 636h. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 636, acts May 12, 1933, ch. 25, title II, § 40, 48 Stat. 51; Sept. 6, 1966, Pub. L. 89-554, § 8(a), 80 Stat. 648, provided for the organization of the Farm Credit Administration and is now covered by section 2247 of this title.

Section 636a, act Aug. 6, 1953, ch. 335, § 2, 67 Stat. 390, stated the Congressional declaration of policy concerning agricultural credit and is now covered by section 2001 of this title.

Section 636a note, act Aug. 6, 1953, ch. 335, § 1, 67 Stat. 390, provided that such act Aug. 6, 1953, should be known as the "Farm Credit Act of 1953".

Section 636b, act Aug. 6, 1953, ch. 335, § 3, 67 Stat. 390, covered the creation of the Farm Credit Administration as an independent agency in the executive branch and is now covered by section 2241 et seq. of this title.

Section 636c, acts Aug. 6, 1953, ch. 335, § 4, 67 Stat. 390; Aug. 11, 1955, ch. 785, title IV, § 402, 69 Stat. 666; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387; Aug. 2, 1966, Pub. L. 89-525, § 6, 80 Stat. 335, provided for the creation of the Federal Farm Credit Board and is now covered by section 2242 et seq. of this title.

Section 636d, act Aug. 6, 1953, ch. 335, § 5, 67 Stat. 392; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(j), 73 Stat. 387; Oct. 4, 1961, Pub. L. 87-367, title III, § 302(a), 75 Stat. 793, provided for the position of Governor of the Farm Credit Administration and is now covered by section 2244 et seq. of this title.

Section 636e, act Aug. 6, 1953, ch. 335, § 6, 67 Stat. 393, covered the duties of the Federal Farm Credit Board and is now covered by section 2227 of this title.

Section 636f, acts Aug. 6, 1953, ch. 335, § 7, 67 Stat. 393; Aug. 11, 1955, ch. 785, title I, § 110(c), 69 Stat. 662; Oct. 4, 1961, Pub. L. 87-353, § 3(n), 75 Stat. 774, provided for the abolishment of certain offices and funds under the program as it existed prior to 1953.

Section 636g, acts Aug. 6, 1953, ch. 335, § 8, 67 Stat. 394; July 26, 1956, ch. 741, title I, § 107(a), 70 Stat. 666; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, authorized the delegation of powers to institutions in the farm credit districts and is now covered by section 2253 of this title.

Section 636h, act Aug. 6, 1953, ch. 335, § 17(b), 67 Stat. 399, covered the administrative expenditures of the Farm Credit Administration and is now covered by section 2249 of this title.

§§ 637, 638. Repealed. Aug. 6, 1953, ch. 335, § 19, 67 Stat. 400

Section 637, acts May 12, 1933, ch. 25, title II, § 39, 48 Stat. 50; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273, related to certain functions, powers, authority, and duties of the Land Bank Commissioner.

Section 638, act June 16, 1933, ch. 98, title VIII, § 80, 48 Stat. 273, changed the name of the office of Farm Loan Commissioner to Land Bank Commissioner, contained provisions relating to his term of office, and contained provisions relating to appointment (within the Farm Credit Administration), compensation, expenses and duties of a Production Credit Commissioner, a Cooperative Bank Commissioner, and an Intermediate Credit Commissioner.

EFFECTIVE DATE OF REPEAL

Repeal of these sections by act Aug. 6, 1953, effective 120 days after Aug. 6, 1953.

§§ 639, 640. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 639, act June 16, 1933, ch. 98, title VIII, § 82, 48 Stat. 273, made a supplementary grant of powers to the Governor of the Farm Credit Administration.

Section 640, act June 16, 1933, ch. 98, title VIII, § 85, 48 Stat. 273, authorized the Farm Credit Administration to have a seal and is now covered by section 2248 of this title.

§ 640–1. Omitted

CODIFICATION

Section, act July 1, 1944, ch. 364, 58 Stat. 675, related to prepayment of balance of purchase price with respect to contracts or agreements for sale of real estate having been in force for five years.

DISTRICT ORGANIZATIONS UNDER SUPERVISION OF FARM CREDIT ADMINISTRATION; FARM CREDIT DISTRICTS AND FARM CREDIT BOARDS

§§ 640a to 640*l*. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 640a, acts Aug. 19, 1937, ch. 704, § 5(a), 50 Stat. 704; Oct. 29, 1949, ch. 786, § 5, 63 Stat. 986, created farm credit districts and is now covered by section 2221 of this title.

Section 640b, acts Aug. 19, 1937, ch. 704, § 5(b), 50 Stat. 704; Aug. 6, 1953, ch. 335, § 14, 67 Stat. 396; Aug. 11, 1955, ch. 785, title IV, § 401(a), 69 Stat. 666; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387, provided for the creation of district farm credit boards and is now covered by section 2222 of this title.

Section 640c, act Aug. 19, 1937, ch. 704, § 5(c), 50 Stat. 704, provided for the initial board of directors of each district.

Section 640d, acts Aug. 19, 1937, ch. 704, § 5(d), 50 Stat. 704; Aug. 6, 1953, ch. 335, § 15, 67 Stat. 397; Aug. 11, 1955, ch. 785, title IV, § 401(b), 69 Stat. 666; July 26, 1956, ch. 741, title I, § 106(a)(1), 70 Stat. 666; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387, provided for the replacement of district directors and is now covered by section 2221 et seq. of this title.

Section 640e, acts Aug. 19, 1937, ch. 704, § 5(e), 50 Stat. 705; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387; Aug. 2, 1966, Pub. L. 89–525, § 5, 80 Stat. 334, provided for the nomination of elected directors and is now covered by section 2223 of this title.

Section 640f, acts Aug. 19, 1937, ch. 704, § 5(f), 50 Stat. 705; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387; Aug. 2, 1966, Pub. L. 89–525, § 5, 80 Stat. 334, provided for the election of elected directors and is now covered by section 2223 of this title.

Section 640g, act Aug. 19, 1937, ch. 704, § 5(g), 50 Stat. 705, provided for the term of office and the filling of vacancies and is now covered by section 2221 et seq. of this title.

Section 640h, acts Aug. 19, 1937, ch. 704, § 5(h), 50 Stat. 705; July 26, 1956, ch. 741, title I, § 106(a)(2), 70 Stat. 166, set out the general qualifications of members of each farm credit board and is now covered by section 2222 of this title.

Section 640i, act Aug. 19, 1937, ch. 704, § 5(i), 50 Stat. 706, made felons and defrauders ineligible for membership and is now covered by section 2222 of this title.

Section 640j, act Aug. 19, 1937, ch. 704, § 5(j), 50 Stat. 706, provided for the compensation of members of farm credit boards and is now covered by section 2226 of this title.

Section 640k, act Aug. 19, 1937, ch. 704, § 5(k), 50 Stat. 706, declared sections 640a to 640j of this title as not affecting laws making agricultural credit laws applicable to territories and possessions.

Section 640*l*, acts Aug. 19, 1937, ch. 704, § 6, 50 Stat. 706; July 26, 1956, ch. 741, title I, § 106(b), 70 Stat. 666; Aug. 18, 1959, Pub. L. 86–168, title II, § 201, 73 Stat. 387; Sept. 6, 1966, Pub. L. 89–554, § 8(a), 80 Stat. 649, set out the status of farm credit banks and employees and is now covered by section 2221 et seq. of this title.

SUBCHAPTER I—FEDERAL LAND BANKS, JOINT-STOCK LAND BANKS, AND FEDERAL LAND BANK ASSOCIATIONS

§§ 641, 642. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 641, acts July 17, 1916, ch. 245, title I, § 1, 39 Stat. 360; Mar. 4, 1923, ch. 252, title I, §§ 1, 2, 42 Stat. 1454; Ex. Ord. No. 6084, Mar. 27, 1933, directed that the act July 17, 1916, be administered by the Farm Credit Administration.

Section 642, act July 17, 1916, ch. 245, title I, § 2, 39 Stat. 360; Ex. Ord. No. 6084, Mar. 27, 1933, defined the terms "first mortgage" and "farm-loan bonds".

ADMINISTRATIVE PROVISIONS RELATIVE TO THIS SUBCHAPTER

§ 651. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, § 3, 39 Stat. 360; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the creation of the Federal Farm Loan Bureau.

§§ 652 to 655. Repealed. Aug. 6, 1953, ch. 335, § 19, 67 Stat. 400

Sections, act July 17, 1916, ch. 245, title I, § 3 (part), 39 Stat. 360, related to appointment, compensation, and oath of the Land Bank Commissioner, restriction on his right to engage in certain business and filling vacancies.

Section 652 was amended by act Mar. 4, 1923, ch. 252, title III, § 301, 42 Stat. 1473; Ex. Ord. No. 6084, Mar. 27, 1933; and act June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273.

Sections 653, 654, and 655 were each amended by Ex. Ord. No. 6084, Mar. 27, 1933; and act June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273.

EFFECTIVE DATE OF REPEAL

Repeal of these sections by act Aug. 6, 1953, effective 120 days after Aug. 6, 1953.

§§ 656, 656a. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 656, acts July 17, 1916, ch. 245, title I, § 3, 39 Stat. 361; Apr. 20, 1920, ch. 154, § 1, 41 Stat. 570; Ex. Ord. No. 6084 Mar. 27, 1933; Aug. 19, 1937, ch. 704, §§ 5(a), 20, 50 Stat. 704, 710; Aug. 18, 1959, Pub. L. 86–168, title I, § 101(a), 73 Stat. 384, provided for the appointment of registrars, appraisers, and examiners.

Section 656a, act Aug. 19, 1937, ch. 704, § 20, 50 Stat. 710, provided for the designation of farm credit examiners.

§ 657. Repealed. Sept. 21, 1944, ch. 412, § 601(d), 58 Stat. 741, eff. July 1, 1944

Section, act July 17, 1916, ch. 245, title I, § 3, 39 Stat. 361, as amended by acts Mar. 4, 1923, ch. 252, title III, § 302, 42 Stat. 1473; Mar. 4, 1925, ch. 524, § 3, 43 Stat. 1262; June 26, 1930, ch. 613, 46 Stat. 815, related to payment of salaries and expenses of certain employees of the Federal Farm Loan Bureau.

§§ 658, 659. Repealed. Pub. L. 86–168, title I, § 101(b), (c), Aug. 18, 1959, 73 Stat. 384, eff. Dec. 31, 1959

Section 658, acts July 17, 1916, ch. 245, title I, § 3, 39 Stat. 361; Mar. 4, 1923, ch. 252, title III, § 302, 42 Stat. 1473; Mar. 4, 1925, ch. 524, § 3, 43 Stat. 1262, related to compensation and manner of payment of Federal landbank appraisers and appraisers or inspectors of Federal intermediate credit banks.

Section 659, acts July 17, 1916, ch. 245, title I, § 3, 39 Stat. 361; Mar. 4, 1925, ch. 524, § 4, 43 Stat. 1263, related to the employment of attorneys, experts and other employees.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective Dec. 31, 1959, pursuant to section 104(k) of Pub. L. 86-168.

§§ 660 to 665. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 660, act July 17, 1916, ch. 245, title I, § 3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the submission of statements covering the salaries paid by land banks.

Section 661, act July 17, 1916, ch. 245, title I, § 3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933, required the filing of an annual report to Congress by the Farm Credit Administration. See section 2221 et seq. of this title.

Section 662, acts July 17, 1916, ch. 245, title I, § 3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, § 101(d), 73 Stat. 384, provided for examinations and reports and is now covered by section 2254 of this title.

Section 663, acts July 17, 1916, ch. 245, title I, § 3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title III, § 301(a), 69 Stat. 664; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for statements of condition of land bank associations and land banks and is now covered by section 2254 of this title.

Section 664, act July 17, 1916, ch. 245, title I, § 3, 39 Stat. 361; Ex. Ord. No. 6084, Mar. 27, 1933, authorized the preparation of bulletins and circulars by the Farm Credit Administration and is now covered by section 2252 of this title.

Section 665, acts Jan. 23, 1932, ch. 9, § 6, 47 Stat. 14; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title I, § 110(d), 69 Stat. 662, authorized the Farm Credit Administration to make rules and regulations and is now covered by section 2252 of this title.

ORGANIZATION OF FEDERAL LAND BANKS

§ 671. Repealed. Aug. 19, 1937, ch. 704, § 7(a), 50 Stat. 707

Section, act July 17, 1916, ch. 245, title I, § 4, 39 Stat. 362, related to designation of Federal land bank districts by the Farm Credit Administration.

§§ 672 to 677a. Repealed. Pub. L. 92-181, title V, § 5.26 (a), Dec. 10, 1971, 85 Stat. 624

Section 672, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 362; Feb. 27, 1921, ch. 78, 41 Stat. 1148; Mar. 4, 1923, ch. 252, title III, § 303, 42 Stat. 1474; Mar. 4, 1929, ch. 700, 45 Stat. 1558; May 17, 1932, ch. 190, 47 Stat. 158; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 5(a), 50 Stat. 704; June 30, 1945, ch. 204, § 3, 59 Stat. 267; Oct. 29, 1949, ch. 786, § 1(a), 63 Stat. 985; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for the establishment of Federal land banks and is now covered by section 2011 of this title.

Section 672a, acts Mar. 10, 1924, ch. 46, § 2, 43 Stat. 17; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 5(a), 50 Stat. 704, provided for the extension of the farm credit system under the Farm Credit Administration to Hawaii.

Section 673, act July 17, 1916, ch. 245, title I, § 4, 39 Stat. 362; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the temporary management of Federal land banks.

Section 674, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 362; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, set out the requisite contents of organization certificates for land banks.

Section 675, act July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Ex. Ord. No. 6084, Mar. 27, 1933, authorized changes in organization certificates on the direction of the Farm Credit Administration.

Section 676, act July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Ex. Ord. No. 6084, Mar. 27, 1933, set the time for the commencement of the corporate existence of land banks and enumerated their powers. See section 2012 of this title.

Section 677, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, set the time for termination of the temporary management of land banks.

Section 677a, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, § 304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, § 70a(a) (1)-(4), title VIII, § 80(a), 48 Stat. 269, 273; Aug. 19, 1937, ch. 704, § 7(b), 50 Stat. 707, provided for the compensation of the director of the farm credit boards of each farm credit district. See section 2226 of this title.

§§ 678 to 682. Omitted

CODIFICATION

Sections were stricken by act Aug. 19, 1937, ch. 704, § 7(b), 50 Stat. 707, and former section 677a of this title was substituted in lieu thereof.

Section 678, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, § 304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, § 70a(a)(1), 48 Stat. 269, related to number and qualifications of directors.

Section 678a, act June 16, 1933, ch. 98, title VII, § 70a(b), 48 Stat. 270, related to successors of directors.

Section 679, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, § 304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, § 70a(a)(2), 48 Stat. 270, related to nomination of candidates for local directors.

Section 680, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, § 304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, § 70a(a)(3), 48 Stat. 270, related to election of local directors.

Section 681, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, § 304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, § 70a(a)(4), 48 Stat. 270, related to appointment and election of district directors and director at large, and filling of vacancies.

Section 682, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, § 304, 42 Stat. 1474, related to qualifications of directors and limitation on engagement in other business.

§ 682a. Repealed. Aug. 19, 1937, ch. 704, § 7(c), 50 Stat. 707

Section, act June 3, 1935, ch. 164, § 23, 49 Stat. 320, related to disqualification of persons convicted of felony or fraud for positions with Federal land banks and is covered by section 640i of this title.

§ 683. Omitted

Section, acts July 17, 1916, ch. 245, title I, § 4, 39 Stat. 363; Mar. 4, 1923, ch. 252, title III, § 304, 42 Stat. 1474; June 16, 1933, ch. 98, title VII, § 70, title VIII, § 80a, 48 Stat. 269, 273, related to the compensation and allowances of directors, officers, and employees, and was stricken by act Aug. 19, 1937, ch. 704, § 7(b), 50 Stat. 707. Section 70 of act June 16, 1933, ch. 98, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648. See section 2226 of this title.

CAPITAL STOCK OF FEDERAL LAND BANKS

§§ 691 to 697. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 691, act July 17, 1916, ch. 245, title I, § 5, 39 Stat. 364; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the minimum amount of original capital for Federal land banks and is now covered by section 2013 of this title.

Section 692, act July 17, 1916, ch. 245, title I, § 5, 39 Stat. 364, provided for the distribution and value of stock for Federal land banks and is now covered by section 2013 of this title.

Section 693, acts July 17, 1916, ch. 245, title I, § 5, 39 Stat. 364; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, covered the transfer of stock held by land bank associations. See section 2013 of this title.

Section 694, acts July 17, 1916, ch. 245, title I, § 5, 39 Stat. 364; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, covered dividends for land bank stock and is now covered by section 2013 of this title.

Section 695, acts July 17, 1916, ch. 245, title I, § 5, 39 Stat. 364; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 5(a), 50 Stat. 704, covered the subscription by the United States for unsubscribed balance of original capital stock of Federal land banks. See section 2001 et seq. of this title.

Section 696, acts July 17, 1916, ch. 245, title I, § 5, 39 Stat. 364; Jan. 23, 1932, ch. 9, § 1, 47 Stat. 12; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, covered the retirement of original stock of Federal land banks and is now covered by section 2051 of this title.

Section 697, acts July 17, 1916, ch. 245, title I, § 5, 39 Stat. 364; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub L. 86-168, title I, § 104(h), 73 Stat. 387, set out the required proportion of capital of Federal land banks that had to be held in the form of quick assets. See section 2051 of this title.

§ 698. Repealed. Aug. 11, 1955, ch. 785, title III, § 302, 69 Stat. 664

Section, act July 17, 1916, ch. 245, title I, § 5 (par.), as added Jan. 23, 1932, ch. 9, § 2, 47 Stat. 12, related to subscriptions by the United States to the capital stock of the Federal land banks and is not now covered.

Land Banks as Government Depositaries and Agents

§ 701. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, § 6, 39 Stat. 365, covered land banks as government depositaries and agents and is now covered by section 2012 of this title.

Federal Land Bank Associations Generally

§§ 711 to 724. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 711, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for the organization of land bank associations and is now covered by section 2031 of this title.

Section 712, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Aug. 19, 1937, ch. 704, § 21, 59 Stat. 266; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), (i), 73 Stat. 387, provided for the directors, officers, and loan committee of land bank associations and is now covered by section 2031 et seq. of this title.

Section 713, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(i), 73 Stat. 387, provided for the compensation and qualifications of directors and is now covered by section 2032 of this title.

Section 714, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Mar. 4, 1923, ch. 252, title III, § 305, 42 Stat. 1476; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title III, § 301(b), 69 Stat. 664; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), (i), 73 Stat. 387, set out the duties of the manager of each land bank association and is now covered by section 2031 of this title.

Section 715, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), (i), 73 Stat. 387, provided for the expenses of the personnel of land bank associations and is now covered by section 2033 of this title.

Section 716, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; June 3, 1935, ch. 164, § 19(a), (b), 49 Stat. 319; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), (i), 73 Stat. 387, provided for the incorporators, organization, directors, and managers of land bank associations and is now covered by section 2031 et seq. of this title.

Section 717, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(i), 73 Stat. 387, covered the report and affidavit accompanying the articles of association and is now covered by section 2031 of this title.

Section 718, act July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the investigation of the solvency of applicants for incorporation and is now covered by section 2254 of this title.

Section 719, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 8, 50 Stat. 707; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, covered the grant or refusal of charters to land bank associations and is now covered by section 2031 et seq. of this title.

Section 720, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, authorized the receipt of funds to be loaned to members and is now covered by section 2033 of this title.

Section 721, acts July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, covered the subscriptions to land bank stock as collateral and the retirement of stock and is now covered by section 2034 of this title.

Section 722, act July 17, 1916, ch. 245, title I, § 7, 39 Stat. 365, placed a limitation on the reduction of capital stock of land banks and is now covered by section 2034 of this title.

Section 723, acts July 17, 1916, ch. 245, title I, § 7 (pt.), as added Mar. 4, 1933, ch. 270, § 1, 47 Stat. 1547, and amended May 12, 1933, ch. 25, title II, § 26, 48 Stat. 44; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273; Jan. 31, 1934, ch. 7, § 6, 48 Stat. 346; Aug. 19, 1937, ch. 704, §§ 5(a), 22, 50 Stat. 704, 710; Oct. 29, 1949, ch. 786, § 1(b), 63 Stat. 986; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), (i), 73 Stat. 387; Oct. 4, 1961, Pub. L. 87-353, § 3(a), (e), 75 Stat. 773, 774, authorized direct loans and is now covered by section 2020 of this title.

Section 724, acts Aug. 19, 1937, ch. 704, § 25(b), 50 Stat. 711; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for loans when an association's stock is impaired and is now covered by section 2020 of this title.

Capital Stock of Federal Land Bank Associations

§§ 731 to 734. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 731, acts July 17, 1916, ch. 245, title I, § 8, 39 Stat. 367; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, set a $5 par value for shares of land bank association stock and is now covered by section 2031 of this title.

Section 732, acts July 17, 1916, ch. 245, title I, § 8, 39 Stat. 367; Aug. 9, 1937, ch. 704, § 23, 50 Stat. 710, set out the voting privileges for land bank association stock and is now covered by section 2034 of this title.

Section 733, acts July 17, 1916, ch. 245, title I, § 8, 39 Stat. 367; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, limited borrowers to members and is now covered by section 2034 of this title.

Section 734, acts July 17, 1916, ch. 245, title I, § 8, 39 Stat. 367; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title III, § 301(c), 69 Stat. 664; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for increases in stock and is now covered by section 2034 of this title.

Federal Land Bank Associations; Special Provisions

§§ 741 to 747. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 741, acts July 17, 1916, ch. 245, title I, § 9, 39 Stat. 368; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387, covered members' rights to loans and is now covered by section 2201 of this title.

Section 742, acts July 17, 1916, ch. 245, title I, § 9, 39 Stat. 368; Aug. 18, 1959, Pub. L. 86–168, title I, § 102(a), 73 Stat. 384, covered payments for stock from proceeds of member's mortgage loan and is now covered by section 2033 of this title.

Section 743, acts July 17, 1916, ch. 245, title I, § 9, 39 Stat. 368; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387, authorized the retention of commissions on interest payments and is now covered by section 2033 of this title.

Section 744, acts July 17, 1916, ch. 245, title I, § 9, 39 Stat. 368; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387, provided for the individual liability of shareholders.

Section 744a, acts June 16, 1933, ch. 98, title VII, § 72, 48 Stat. 271; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387, relieved shareholders of land bank associations of personal liability for contracts, debts, and engagements entered into after June 16, 1933.

Section 745, acts July 17, 1916, ch. 245, title I, § 9, 39 Stat. 368; June 3, 1935, ch. 164, 20, 49 Stat. 319; Aug. 19, 1937, ch. 704, § 24, 50 Stat. 710; June 30, 1945, ch. 204, § 1(b), 59 Stat. 266; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), (i), 73 Stat. 387, provided for new members for land bank associations and is now covered by section 2033 of this title.

Section 746, act July 17, 1916, ch. 245, title I, § 9 (par.) as added Aug. 19, 1937, ch. 704, § 25(a), 50 Stat. 710, and amended Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387, provided for a common board of directors for two or more associations and is now covered by section 2032 of this title.

Section 747 act July 17, 1916, ch. 245, title I, § 9 (par.), as added Aug. 19, 1937, ch. 704, § 25(a), 50 Stat. 711, and amended Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387, provided for the transfer of powers to a loan committee and is now covered by section 2033 of this title.

Appraisal for Farm Loans

§§ 751 to 757. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 751, acts July 17, 1916, ch. 245, title I, § 10 (a), 39 Stat. 369; Apr. 20, 1920, ch. 154, § 2, 41 Stat. 570; June 30, 1945, ch. 204, § 2, 59 Stat. 266; Aug. 18, 1959, Pub. L. 86–168, title I, § 102(b), 73 Stat. 384, covered the investigation of applications for mortgage loans by the loan committee and is now covered by section 2033 of this title.

Section 752, acts July 17, 1916, ch. 245, title I, § 10(b), 39 Stat. 369; Apr. 20, 1920, ch. 154, § 2, 41 Stat. 570; June 30, 1945, ch. 204, § 2, 59 Stat. 266; Aug. 18, 1959, Pub. L. 86–168, title I, § 102(b), 73 Stat. 385, covered the submission of loan applications and the required reports to land banks and is now covered by section 2033 of this title.

Section 753, acts July 17, 1916, ch. 245, title I, § 10(c), 39 Stat. 369; June 30, 1945, ch. 204, § 2, 59 Stat. 266; Aug. 18, 1959, Pub. L. 86–168, title I, § 102(b), 73 Stat. 385, provided for the form for appraisal reports.

Section 754, acts July 17, 1916, ch. 245, title I, § 10(d), 39 Stat. 369; Aug. 18, 1959, Pub. L. 86–168, title I, § 102(b), 73 Stat. 385, dealt with conflicting interests of farm credit or land bank appraisers, committeemen, and association directors, and is now covered by section 2254 of this title.

Section 755, acts July 17, 1916, ch. 245, title I, § 10(e), 39 Stat. 369; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86–168, title I, § 102(b), 73 Stat. 385, provided for appraisal standards studies by Federal land banks and is now covered by section 2033 of this title.

Section 756, acts July 17, 1916, ch. 245, title I, § 10(f), 39 Stat. 369; Aug. 18, 1959, Pub. L. 86–168, title I, § 102(b), 73 Stat. 385, covered appraisals, reports, and standards by farm credit appraisers and is now covered by section 2012 of this title.

Section 757, act July 17, 1916, ch. 245, title I, § 10(g), as added Aug. 11, 1955, ch. 785, title III, § 303, 69 Stat. 664, and amended Aug. 18, 1959, Pub. L. 86–168, title I, § 102(b), 73 Stat. 385, set out the duties of farm credit appraisers and is now covered by section 2254 of this title.

Powers of Federal Land Bank Associations

§ 761. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts July 17, 1916, ch. 245, title I, § 11, 39 Stat. 369; Apr. 20, 1920, ch. 154, § 3, 41 Stat. 570; Ex. Ord. No. 6084 Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 25(c), 50 Stat. 713; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(h), 73 Stat. 387, enumerated the powers of the Federal land bank associations and is now covered by section 2033 of this title.

Restriction on Loans of Federal Land Banks Based on First Mortgages

§§ 771, 772. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 771, acts July 17, 1916, ch. 245, § 12, 39 Stat. 370; Apr. 20, 1920, ch. 154, § 4, 41 Stat. 570; Mar. 4, 1923, ch. 252, title III, §§ 306, 307, 42 Stat. 1476; Mar. 4, 1933, ch. 270, § 2, 47 Stat. 1547; Ex. Ord. No. 6084, Mar. 27, 1933; May 12, 1933, ch. 25, title II, §§ 24, 25, 41, 48 Stat. 43, 44, 51; June 16, 1933, ch. 98, title VII, §§ 73, 74, title VIII, § 80(a), 48 Stat. 271, 273; June 3, 1935, ch. 164, §§ 3, 18, 22, 49 Stat. 314, 319; June 24, 1936, ch. 762, 49 Stat. 1912; July 22, 1937, ch. 516, § 1, 50 Stat. 521; Aug. 19, 1937, ch. 704; §§ 5(a), 12, 50 Stat. 704, 708; June 16, 1938, ch. 462, § 1, 52 Stat. 709; June 29, 1940, ch. 441, § 1, 54 Stat. 684; June 27, 1942, ch. 449, § 1, 56 Stat. 391; June 30, 1945, ch. 204, § 4, 59 Stat. 267; Oct. 29, 1949, ch. 786, § 2, 63 Stat. 986; Aug. 11, 1955, ch. 785, title III, § 304, 69 Stat. 664; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(a), (h), 73 Stat. 386, 387; Oct. 3, 1961, Pub. L. 87–343, § 1(a), 75 Stat. 758; Aug. 2, 1966, Pub. L. 89–525, § 2, 80 Stat. 334; Dec. 15, 1967, Pub. L. 90–204, § 2, 81 Stat. 612, set out restrictions on loans and is now covered by section 2011 et seq. of this title.

Section 772, acts July 17, 1916, ch. 245, title I, § 12, 39 Stat. 370; Jan. 31, 1934, ch. 7, § 7, 48 Stat. 346; Oct. 4, 1961, Pub. L. 87–353, § 3(f), 75 Stat. 774, authorized the transmittal of loan funds to land bank associations either in the form of current funds or farm loan bonds.

§ 773. Omitted

Codification

Section, act May 15, 1922, ch. 190, § 3, 42 Stat. 542, which related to mortgages on farm lands under United States reclamation projects, and contained a definition of "first mortgage" as used in section 771 of this title, was omitted because of the repeal of section 771 and other sections of this title that were based on the Federal Farm Loan Act.

§ 773a. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 4, 1936, ch. 496, 49 Stat. 1461; Oct. 4, 1961, Pub. L. 87–353, § 3(k), 75 Stat. 774, provided for loans on lands in drainage, irrigation, or conservancy districts.

Powers of Federal Land Banks Generally

§ 781. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts July 17, 1916, ch. 245, § 13, 39 Stat. 372; Jan. 23, 1932, ch. 9, § 5, 47 Stat. 14; Mar. 4, 1933, ch. 270, §§ 3, 4, 47 Stat. 1548; Ex. Ord. No. 6084, Mar. 27, 1933; May 12, 1933, ch. 25, title II, §§ 22, 23, 48 Stat. 42, 43; June 16, 1933, ch. 98, title VII, § 79, title VIII, § 80(a), 48 Stat. 272, 273; Jan. 31, 1934, ch. 7, § 8(a), 48 Stat. 347; Aug. 19, 1937, ch. 704, §§ 5(a), 15(a), (b), 16, 17, 19, 50 Stat. 704, 708, 709; June 30, 1945, ch. 204, §§ 5-7, 59 Stat. 267; Oct. 29, 1949, ch. 786, § 3, 63 Stat. 986; June 1, 1955, ch. 117, 69 Stat. 81; Aug. 11, 1955, ch. 785, title III, § 305, 69 Stat. 665; July 26, 1956, ch. 741, title I, § 104(e), 70 Stat. 664; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387; Oct. 4, 1961, Pub. L. 87-353, § 3(g), (h), 75 Stat. 774; Aug. 2, 1966, Pub. L. 89-525, § 2, 80 Stat. 334, enumerated the powers of Federal land banks generally and is now covered by section 2012 of this title.

Restrictions on Federal Land Banks

§ 791. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts July 17, 1916, ch. 245, title I, § 14, 39 Stat. 372; Mar. 4, 1933, ch. 270, § 5(a), (b), 47 Stat. 1549; June 16, 1933, ch. 98, title VII, §§ 71, 75(a), 48 Stat. 271; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, set out an enumeration of restriction on Federal land banks and is now covered by section 2012 et seq. of this title.

Loans by Federal Land Banks Through Agents

§§ 801 to 808. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 801, acts July 17, 1916, ch. 245, title I, § 15, 39 Stat. 373; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, authorized loans by Federal land banks through agents and is now covered by section 2020 of this title.

Section 802, acts July 17, 1916, ch. 245, title I, § 15, 39 Stat. 373; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, covered the manner of making loan through agents and is now covered by section 2020 of this title.

Section 803, act July 17, 1916, ch. 245, title I, § 15, 39 Stat. 373, placed limits on who could be employed as agent and is now covered by section 2020 of this title.

Section 804, act July 17, 1916, ch. 245, title I, § 15, 39 Stat. 373, covered expenses of and commissions to agents and is now covered by section 2020 of this title.

Section 805, act July 17, 1916, ch. 245, title I, § 15, 39 Stat. 373, provided for the addition of the expenses of agents to loans and is now covered by section 2020 of this title.

Section 806, act July 17, 1916, ch. 245, title I, § 15, 39 Stat. 373, covered the collection of loan payments and is now covered by section 2020 of this title.

Section 807, act July 17, 1916, ch. 245, title I, § 15, 39 Stat. 373, covered the indorsement of loans and the liability thereon and is now covered by section 2020 of this title.

Section 808, acts July 17, 1916, ch. 245, title I, § 15, 39 Stat. 373; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided when loans were to cease and is now covered by section 2020 of this title.

Joint-Stock Land Banks

§§ 810 to 824. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 810, act May 12, 1933, ch. 25, title II, § 29, 48 Stat. 46, prohibited the making of loans or the issuing of bonds after May 12, 1933, by joint-stock land banks.

Section 811, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, provided for the organization of joint-stock banks.

Section 812, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, provided for the individual liability of shareholders in joint-stock land banks.

Section 813, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, covered the powers, duties, and liabilities of joint-stock land banks.

Section 814, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, placed a limit on the amount of issue of bonds and prohibited the transacting of unauthorized business.

Section 815, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the minimum allowable capital stock for joint-stock land banks.

Section 816, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, prohibited the issuance of bonds before the capital stock of joint-stock land banks was entirely paid up.

Section 817, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374; Ex. Ord. No. 6084, Mar. 27, 1933, set out the required form for bonds issued by joint-stock land banks.

Section 818, acts July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374; Mar. 4, 1931, ch. 518, § 1, 46 Stat. 1548, set out interest rates and restrictions on mortgage loans for joint-stock land banks.

Section 819, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, set a limitation on interest rates.

Section 820, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374, prohibited unauthorized commissions or charges by joint-stock land banks.

Section 821, act July 17, 1916, ch. 245, title I, § 16, 39 Stat. 374; Ex. Ord. No. 6084, Mar. 27, 1933, authorized the issuance of bonds by joint-stock land banks.

Section 822, act July 17, 1916, ch. 245, title I, § 16 (par.), as added May 29, 1920, ch. 215, 41 Stat. 691, and amended Ex. Ord. No. 6084, Mar. 27, 1933, provided for the voluntary liquidation of joint-stock land banks.

Section 823, act July 17, 1916, ch. 245, title I, § 16 (pars.), as added May 29, 1920, ch. 215, 41 Stat. 691, and amended Mar. 4, 1925, ch. 524, § 5, 43 Stat. 1263; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for the acquisition of the assets of a liquidating joint-stock land bank.

Section 824, act July 17, 1916, ch. 245, title I, § 16 (par.), as added Mar. 4, 1931, ch. 518, § 2, 46 Stat. 1548, and amended Ex. Ord. No. 6084, Mar. 27, 1933, covered the insolvency and receivership of joint-stock land banks.

Powers of Farm Credit Administration

§§ 831 to 833. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 831, acts July 17, 1916, ch. 245, title I, § 17, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 9, 50 Stat. 707; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, contained an enumeration of the powers of the Farm Credit Administration and is now covered by section 2252 of this title.

Section 832, acts Sept. 21, 1944, ch. 412, title VI, § 601(a) to (c), 58 Stat. 740; Aug. 11, 1955, ch. 785, title III, § 307, 69 Stat. 665; July 26, 1956, ch. 741, title I, § 108, 70 Stat. 667; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for the allocation of administrative expenses rendered each year by the Farm Credit Administration and is now covered by section 2250 of this title.

Section 833, act Sept. 21, 1944, ch. 412, title VI, § 602, 58 Stat. 741, authorized the purchase of manuscripts, data, and special reports by the Farm Credit Administration.

Applications for Farm-Loan Bonds

§§ 841 to 844. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 841, act July 17, 1916, ch. 245, title I, § 18, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the application for farm loan bonds and is now covered by section 2154 of this title.

Section 842, act July 17, 1916, ch. 245, title I, § 18, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the investigation and appraisal of securities tendered and is now covered by section 2154 of this title.

Section 843, act July 17, 1916, ch. 245, title I, § 18, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the transmission of decisions to land bank and registrar.

Section 844, act July 17, 1916, ch. 245, title I, § 18, 39 Stat. 375; Ex. Ord. No. 6084, Mar. 27, 1933, required that the Farm Credit Administration execute a writing when approving a farm-loan bond issue.

Issue of Farm-Loan Bonds

§§ 851 to 857. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 851, act July 17, 1916, ch. 245, title I, § 19, 39 Stat. 376; Ex. Ord. No. 6084, Mar. 27, 1933, set out the duties of the farm-loan registrar on the approval of a bond issue.

Section 852, act July 17, 1916, ch. 245, title I, § 19, 39 Stat. 376; Ex. Ord. No. 6084, Mar. 27, 1933, covered the return of collateral security whenever the Farm Credit Administration rejects entirely an application for an issue of farm-loan bonds.

Section 853, act July 17, 1916, ch. 245, title I, § 19, 39 Stat. 376; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the disposition of security upon the approval of an application for the issue of farm-loan bonds.

Section 854, acts July 17, 1916, ch. 245, title I, § 19, 39 Stat. 376; Mar. 4, 1933, ch. 270, § 6(a), 47 Stat. 1549; Ex. Ord. No. 6084, Mar. 27, 1933, set out the conditions for mortgages eligible as collateral.

Section 855, act July 17, 1916, ch. 245, title I, § 19, 39 Stat. 376, set out the duties of farm loan registrars and authorized the receipt of United States bonds or cash in lieu of mortgages withdrawn.

Section 856, act July 17, 1916, ch. 245, title I, § 19, 39 Stat. 376; Ex. Ord. No. 6084, Mar. 27, 1933, authorized the Farm Loan Administration to call upon any farm loan bank for additional security to protect the bonds issued by it.

Section 857, act July 17, 1916, ch. 245, title I, § 19 (par.), as added Mar. 4, 1933, ch. 270, § 6(b), 47 Stat. 1549, and amended June 30, 1945, ch. 204, § 8, 59 Stat. 268, covered the deposit of acceptable collateral security with the farm loan registrar.

Form of Farm Loan Bonds

§§ 861 to 864. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 861, acts July 17, 1916, ch. 245, title I, § 20, 39 Stat. 377; Apr. 20, 1920, ch. 154, § 5, 41 Stat. 571; Mar. 4, 1921, ch. 151, 41 Stat. 1362; Aug. 13, 1921, ch. 63, 42 Stat. 159; Ex. Ord. No. 6084, Mar. 27, 1933; June 30, 1945, ch. 204, § 9, 59 Stat. 268; Aug. 18, 1958, Pub. L. 86–168, title I, § 104(b), 73 Stat. 386, authorized the issuance of farm loan bonds in the amount, denominations, and terms as the Farm Credit Administration authorized and is now covered by section 2153 of this title.

Section 862, act July 17, 1916, ch. 245, title I, § 20, 39 Stat. 377; Ex. Ord. No. 6084, Mar. 27, 1933, directed the Farm Credit Administration to prescribe rules and regulations concerning the circumstances and manner in which farm loan bonds shall be paid and retired and is now covered by section 2153 of this title.

Section 863, act July 17, 1916, ch. 245, title I, § 20, 39 Stat. 377, directed that farm loan bonds be delivered through the registrar of the district to the bank applying for them.

Section 864, acts July 17, 1916, ch. 245, title I, § 20, 39 Stat. 377; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86–168, title I, § 104(b), 73 Stat. 386, covered the preparation of bonds, custody of plates and dies, the exchange for registered bonds, and reexchange for coupons.

Special Provisions of Farm Loan Bonds

§§ 871 to 886. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 871, act July 17, 1916, ch. 245, title I, § 21, 39 Stat. 377; Ex. Ord. No. 6084, Mar. 27, 1933, provided that land banks be bound by the acts of officers and the Farm Credit Administration in the issue of bonds.

Section 872, act July 17, 1916, ch. 245, title I, § 21, 39 Stat. 377; Ex. Ord. No. 6084, Mar. 27, 1933, covered the liability of each land bank for the bonds issued by it and by other land banks.

Section 873, act July 17, 1916, ch. 245, title I, § 21, 39 Stat. 377, directed that the board of directors of each land bank obligate each such bank to become liable on farm loan bonds.

Section 874, acts July 17, 1916, ch. 245, title I, § 21, 39 Stat. 377; Apr. 20, 1920, ch. 154, § 6, 41 Stat. 571; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VII, § 75(b), title VIII, § 80(a), 48 Stat. 271, 273; June 30, 1945, ch. 204, § 10(a), 59 Stat. 268, provided for the signing and attesting of bonds and the certificate of the Land Bank Commissioner.

Section 875, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, authorized the consolidation of bonds and their sale through a common selling agency.

Section 876, act July 17, 1916, ch. 245, title I § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, and amended June 16, 1933, ch. 98, title VIII, §§ 80(a), 81, 48 Stat. 273, provided for the signature and attestation of bonds, joint and several obligations, and recitals.

Section 877, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, directed that consolidated bonds be made payable at any land bank and authorized provisions making them payable at Federal reserve banks or other designated banks as well.

Section 878, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, and amended Mar. 4, 1925, ch. 524, § 6, 43 Stat. 1264; June 16, 1933, ch. 98, title VIII, §§ 80(a), 81, 48 Stat. 273, directed that land banks on whose behalf consolidated bonds are issued be bound by acts of the Land Bank Commissioner and any deputy land bank commissioner.

Section 879, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, and amended June 16, 1933, ch. 98, title VIII, §§ 80(a), 81, 48 Stat. 273, directed that the boards of directors of land banks, before participating in a consolidated issue, obligate such banks to be liable on farm loan bonds and to be bound by the action of the Land Bank Commissioner and any deputy land bank commissioner.

Section 880, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, and amended Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VII, § 75(b), title VIII, § 80(a), 48 Stat. 271, 273; June 30, 1945, ch. 204 § 10(b), 59 Stat. 269, covered the certificate of the Land Bank Commissioner appearing on the face of every farm loan bond issued.

Section 881, act July 17, 1916, ch. 245, title I, § 21, 39 Stat. 377; Mar. 4, 1923, ch. 252, title VIII, § 308, 42 Stat. 1476; Mar. 4, 1933, ch. 270, § 7, 47 Stat. 1550; Ex. Ord. No. 6084, Mar. 27, 1933, covered the special provisions of farm loan bonds, consolidated bonds, the participation of land banks in their issuance, and collateral.

Section 882, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, and amended Ex. Ord. No. 6084, Mar. 27, 1933, covered the action to be taken upon the failure of a participating bank to pay interest or principal.

Section 883, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, and amended Aug. 19, 1937, ch. 704, § 18, 50 Stat. 709, covered the bond committee of the Federal land banks and the acts of such committee in conducting its business.

Section 884, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, and amended Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, §§ 80(a), 81, 48 Stat. 273, set out the duties of the bond committee upon the contemplation of an issue of consolidated bonds.

Section 885, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, covered the proper charging of the expenses of the bond committee and of the sale of bonds.

Section 886, act July 17, 1916, ch. 245, title I, § 21 (par.), as added Mar. 4, 1923, ch. 252, title III, § 308, 42 Stat. 1476, provided for the compensation of members of the bond committee.

Application of Amortization and Interest Payments

§§ 891 to 899. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 891, acts July 17, 1916, ch. 245, title I, § 22, 39 Stat. 378; Oct. 29, 1949, ch. 786, § 4, 63 Stat. 986, covered the payments upon mortgages pledged as collateral for a bond issue, the notice to the farm-loan registrar, and the cancellation of mortgage and discharge of lien upon full payment.

Section 892, act July 17, 1916, ch. 245, title I, § 22, 39 Stat. 378, covered the withdrawal of collateral and the substitution of other security.

Section 893, act July 17, 1916, ch. 245, title I, § 22, 39 Stat. 378; Ex. Ord. No. 6084, Mar. 27, 1933, provided for the place and mode of payment of bonds or interest thereon and the cancellation of payment.

Section 894, act July 17, 1916, ch. 245, title I, § 22, 39 Stat. 378, provided for the withdrawal of collateral security upon the surrender of bonds.

Section 895, act July 17, 1916, ch. 245, title I, § 22, 39 Stat. 378, covered the interest payments on pledged securities.

Section 896, act July 17, 1916, ch. 245, title I, § 22, 39 Stat. 378, provided for the payment of bonds, coupons, and interest at maturity.

Section 897, acts July 17, 1916, ch. 245, title I, § 22, 39 Stat. 378; Mar. 4, 1923, ch. 252, title III, § 309, 42 Stat. 1477; Jan. 31, 1934, ch. 7, § 8(b), 48 Stat. 347; Aug. 19, 1937, ch. 704, §§ 5(a), 15(c), 50 Stat. 704, 708; Oct. 4, 1961, Pub. L. 87-353, § 3(i), 75 Stat. 774, provided for a trust fund from payments on mortgages held as collateral.

Section 898, act July 17, 1916, ch. 245, title I, § 22, 39 Stat. 378, covered the deposit of trust funds with registrars as substituted collateral security.

Section 899, act July 17, 1916, ch. 245, title I, § 22, 39 Stat. 378, covered the notice to registrars of the dispositions of principal payments on mortgages held as collateral and the transfer to the registrar on demand.

Reserves and Dividends of Land Banks

§§ 901 to 903. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 901, acts July 17, 1916, ch. 245, title I, § 23, 39 Stat. 379; Jan. 23, 1932, ch. 9, § 3(a), 47 Stat. 13; Aug. 11, 1955, ch. 785, title III, § 306(a), 69 Stat. 665; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(c), 73 Stat. 386, provided for the amount to be carried in reserve accounts, the withdrawal of excess, and the restoration of impairment, and is now covered by section 2051 of this title.

Section 902, acts July 17, 1916, ch. 245, title I, § 23, 39 Stat. 379; Jan. 23, 1932, ch. 9, § 3(a), (b), 47 Stat. 13; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 11, 1955, ch. 785, title III, § 306(a), 69 Stat. 665, authorized the declaration of dividends on the balance of net earnings and the investment of reserves and is now covered by section 2051 et seq. of this title.

Section 903, act July 17, 1916, ch. 245, title I, § 23 (par.), as added Aug. 6, 1953, ch. 335, § 10, 67 Stat. 395, provided for the payment of franchise tax before dividends. See section 2051 of this title.

Reserve and Dividends of Federal Land Bank Associations

§§ 911 to 915. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 911, acts July 17, 1916, ch. 245, title I, § 24, 39 Stat. 379; Jan. 23, 1932, ch. 9, § 4, 47 Stat. 13; Aug. 11, 1955, ch. 785, title III, § 306(b), 69 Stat. 665; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(d), (h), 73 Stat. 386, 387, provided for the amount to be carried in reserve account by land bank associations and is now covered by section 2052 of this title.

Section 912, acts July 17, 1916, ch. 245, title I, § 24, 39 Stat. 379; Jan. 23, 1932, ch. 9, § 4, 47 Stat. 13, covered the making good of any impairment of reserve before payment of any dividends.

Section 913, acts July 17, 1916, ch. 245, title I, § 24, 39 Stat. 379; Jan. 23, 1932, ch. 9, § 4, 47 Stat. 13; June 3, 1935, ch. 164, § 4, 49 Stat. 315, provided for the payment of dividends by land bank associations on the balance of net earnings and is now covered by section 2052 of this title.

Section 914, act July 17, 1916, ch. 245, title I, § 24, 39 Stat. 379; Ex. Ord. No. 6084, Mar. 27, 1933, covered the investment of reserves of land bank associations.

Section 915, act July 17, 1916, ch. 245, title I, § 24, 39 Stat. 379, provided for the disposition of reserves on liquidation of land bank associations.

Defaulted Farm Loans

§ 921. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, § 25, 39 Stat. 380; Mar. 4, 1923, ch. 252, title III, § 310, 42 Stat. 1477; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for notice to the indorsing association in the event of a default on a mortgage held by a land bank and for the making good of such default by the association.

Exemption From Taxation

§ 931. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts July 17, 1916, ch. 245, title I, § 26, 39 Stat. 380; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, exempted land banks and land bank associations from taxation and directed that mortgages and bonds be deemed instrumentalities of government. See section 2055 of this title.

§ 931a. Omitted

Codification

Provisions of this section, act May 28, 1938, ch. 289, § 817, 52 Stat. 578, were incorporated as section 3799 of Title 26 (I.R.C. 1939) and now appear as section 76 of Title 26, Internal Revenue Code, 1954.

§§ 932, 933. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 932, act July 17, 1916, ch. 245, title I, § 26, 39 Stat. 380, covered joint-stock land banks and limitations on state taxation of shares thereof.

Section 933, acts July 17, 1916, ch. 245, title I, § 26, 39 Stat. 380; Aug. 18, 1959, Pub. L. 86-168, title I,

§ 104(h), 73 Stat. 387, prohibited a construction of statute which might serve to render exempt real property of land banks and land bank associations from state, county, or municipal taxes.

Investment in Farm-Loan Bonds

§§ 941 to 943. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 941, act July 17, 1916, ch. 245, title I, § 27, 39 Stat. 380, directed that farm-loan bonds be deemed lawful investments for all fiduciary and trust funds.

Section 942, act July 17, 1916, ch. 245, title I, § 27, 39 Stat. 380, covered the buying and selling of farm-loan bonds by member banks of the Federal reserve system.

Section 943, act July 17, 1916, ch. 245, title I, § 27, 39 Stat. 380, covered additional purchases and sales by Federal reserve banks.

Examinations

§§ 951, 952. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 951, acts July 17, 1916, ch. 245, title I, § 28, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 20, 50 Stat. 710, provided for the appointment of farm credit examiners.

Section 952, acts July 17, 1916, ch. 245, title I, § 28, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273; Aug. 19, 1937, ch. 704, § 20, 50 Stat. 710; July 12, 1943, ch. 215, § 1, 57 Stat. 424; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, covered the requirements, responsibilities, and penalties applicable to examiners, and made provision for examinations and reports.

§ 953. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 643

Section, act July 17, 1916, ch. 245, title I, § 28, 39 Stat. 381, related to salaries of Farm credit examiners.

Receivers and Conservators

§§ 961 to 963. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 961, acts July 17, 1916, ch. 245, title I, § 29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 5(a), 50 Stat. 704; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, covered the institution and conduct of receiverships for land bank associations and the duties and powers of receivers.

Section 962, act July 17, 1916, ch. 245, title I, § 29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933, covered the disposition of moneys collected by receivers and the reports to be made thereon.

Section 963, acts July 17, 1916, ch. 245, title I, § 29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for the institution and conduct of receiverships for federal and joint-stock land banks.

§ 963a. Repealed. June 30, 1947, ch. 166, title II, § 206(c), 61 Stat. 208

Section, act May 12, 1933, ch. 25, § 27, 48 Stat. 45, related to authorization of receiver to borrow money for paying taxes on real estate.

§§ 964 to 966. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 964, act July 17, 1916, ch. 245, title I, § 29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; July 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for the disposition of land bank association's stock in the land bank upon the declaration of insolvency and appointment of receiver for the association.

Section 965, act July 17, 1916, ch. 245, title I, § 29, 39 Stat. 381; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, required written consent from the Farm Credit Administration for a land bank, land bank association, or joint stock land bank to go into voluntary liquidation.

Section 966, act July 17, 1916, ch. 245, title I, § 29 (par.), as added Mar. 4, 1923, ch. 252, title III, § 311, 42 Stat. 1748, and amended Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, provided for the disposition of a land bank association's stock in the land bank upon the voluntary liquidation of an association and for the personal liability of members.

Dissolution and Appointment of Receivers

§ 967. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, § 29 (pars.), as added Aug. 19, 1937, ch. 704, § 25(d), 50 Stat. 713, and amended Aug. 18, 1959, Pub. L. 86-168, title I, § 104(e), (h), 73 Stat. 386, 387, provided for a conservator in lieu of a receiver for land bank associations which have failed to meet their outstanding obligations.

State Legislation Impairing Security of Farm Loans

§§ 971 to 973. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 971, acts July 17, 1916, ch. 245, title I, § 30, 39 Stat. 382; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273, directed the Land Bank Commissioner to make examination of state legislation which might impair the security of farm loans.

Section 972, acts July 17, 1916, ch. 245, title I, § 30, 39 Stat. 382; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273, authorized the Farm Credit Administration to declare first mortgages on farm lands ineligible as the basis for an issue of farm loan bonds.

Section 973, act July 17, 1916, ch. 245, title I, § 30, 39 Stat. 382; Ex. Ord. No. 6084, Mar. 27, 1933, authorized the Farm Credit Administration to prepare a statement for the chief executive of any state setting forth in what respects the requirement of the Administration cannot be complied with under existing state laws.

Penalties

§§ 981 to 987. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section 981, acts July 17, 1916, ch. 245, title I, § 31, 39 Stat. 382; June 3, 1935, ch. 164, § 21, 49 Stat. 319, relating to false statements in applications for loans, is covered by sections 213, 1014, and 1909 of Title 18, Crimes and Criminal Procedure.

Section 982, act July 17, 1916, ch. 245, title I, § 31, 39 Stat. 382, relating to counterfeiting bonds or coupons, is covered by section 493 of Title 18, Crimes and Criminal Procedure.

Section 983, act July 17, 1916, ch. 245, title I, § 31, 39 Stat. 382, relating to charging or receiving unauthorized fees or commissions, is covered by sections 216 and 1907 of Title 18, Crimes and Criminal Procedure.

Section 984, July 17, 1916, ch. 245, title I, § 31, 39 Stat. 382, relating to fraud and embezzlement, is covered by sections 657 and 1006 of Title 18, Crimes and Criminal Procedure.

Section 985, act July 17, 1916, ch. 245, title I, § 31, 39 Stat. 382, relating to false pretenses as to character of bonds or coupons, is covered by section 1013 of Title 18, Crimes and Criminal Procedure.

Section 986, act July 17, 1916, ch. 245, title I, § 31, 39 Stat. 382, relating to detection and arrest of violators, is covered by section 3056 of Title 18, Crimes and Criminal Procedure.

Section 987, act July 17, 1916, ch. 245, title I, § 31 (par.), as added June 16, 1933, ch. 98, title VII, § 78, 48

Stat. 272, relating to false statements by mortgagee, is covered by section 1011 of Title 18, Crimes and Criminal Procedure.

GOVERNMENT DEPOSITS IN LAND BANKS

§ 991. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, § 32, 39 Stat. 384; Ex. Ord. No. 6084, Mar. 27, 1933, covered government deposits in land banks, interest rate, security, and maximum amounts.

§§ 992 to 993. Repealed. Pub. L. 87-353, § 3(a), (w), Oct. 4, 1961, 75 Stat. 773, 774

Section 992, act July 17, 1916, ch. 245, § 32 (par.), as added May 12, 1933, ch. 25, title II, § 21, 48 Stat. 41, and amended June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273, related to Government guaranty of interest on qualified Federal land bank bonds issued during limited period, use of proceeds of such bonds, limitation on aggregate amount of such bonds, payment of interest by Government upon inability of issuing bank and rights of Government after such payment.

Section 992a, act Jan. 31, 1934, ch. 7, § 5, 48 Stat. 346, prohibited any Federal land bank, ninety days after January 31, 1934, from issuing any bonds under the provisions of former section 992 of this title, subject to the guarantee of interest on such bonds by the United States except for the purpose of refinancing any bond which was or had been issued subject to such guarantee of interest.

Section 993, act July 17, 1916, ch. 245, § 32 (par.), as added May 12, 1933, ch. 25, title II, § 21, 48 Stat. 41, related to delivery of bonds issued under former section 992 of this title in payment of certain mortgages.

ORGANIZATION EXPENSES

§ 1001. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, § 33, 39 Stat. 384, appropriated $100,000 for carrying this chapter into effect.

LIMITATION OF COURT DECISIONS

§ 1011. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, § 34, 39 Stat. 384, set limits on the effects of any court decisions respecting the validity of provisions of act July 17, 1916, ch. 245, 39 Stat. 360.

AMENDMENTS TO CHAPTER

§ 1012. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title I, § 35, 39 Stat. 384, reserved to Congress the right to amend, alter, or repeal former subchapter I or III of this chapter.

SUBCHAPTER II—LOANS TO FARMERS BY LAND BANK COMMISSIONER

§ 1016. Loans to farmers by Land Bank Commissioner; provisions governing

(a) to (g). Repealed. Pub. L. 87-353, § 3(b), Oct. 4, 1961, 75 Stat. 773

(h) Presumption of authority

Any instrument heretofore or hereafter executed on behalf of the Land Bank Commissioner and/or the Federal Farm Mortgage Corporation by a Federal land bank, through its duly authorized officers, shall be conclusively presumed to have been duly authorized by the Land Bank Commissioner and the Federal Farm Mortgage Corporation.

(May 12, 1933, ch. 25, title II, § 32, 48 Stat. 48; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273; Jan. 31, 1934, ch. 7, §§ 9, 10, 48, Stat. 347; June 11, 1934, ch. 446, 48 Stat. 929; May 28, 1935, ch. 150, § 32, 49 Stat. 300; June 3, 1935, ch. 164, § 2, 49 Stat. 313; July 22, 1937, ch. 516, § 2, 50 Stat. 521; Aug. 19, 1937, ch. 704, §§ 13, 14, 50 Stat. 708; June 16, 1938, ch. 462, § 2, 52 Stat. 709; Feb. 1, 1940, ch. 19, 54 Stat. 19; June 29, 1940, ch. 441, § 1, 54 Stat. 684; June 3, 1942, ch. 321, 56 Stat. 306; June 27, 1942, ch. 449, § 2, 56 Stat. 392; June 26, 1943, ch. 146, 57 Stat. 196; June 30, 1944, ch. 329, 58 Stat. 646; June 30, 1945, ch. 204, §§ 11-13, 59 Stat. 269; July 12, 1946, ch. 570, § 1, 60 Stat. 532; June 30, 1947, ch. 166, title II, § 206(h), 61 Stat. 208; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387; Oct. 4, 1961, Pub. L. 87-353, § 3(b), 75 Stat. 773.)

AMENDMENTS

1961—Subsecs. (a) to (g). Pub. L. 87-353 repealed subsecs. (a) to (g). Act June 30, 1947, ch. 166, title II, § 206(h), 61 Stat. 208, had previously repealed subsec. (a). Subsec. (b) related to maximum loan, value of security for loan and valuation of farm property; subsec. (c) to provisions to be included in mortgage, interest rate, repayment of principal in installments, maximum terms of loans as affected by character of security and privilege of deferring principal payments during first 3 years of loan; and substitution of bank loan; subsec. (d) to requirement of waiver by prior lien holder; subsec. (e) to purpose of loans; subsec. (f) to definitions, loans to corporations and exceptions; and subsec. (g) to loans by Commissioner on behalf of Federal Farm Mortgage Corporation, loans in cash or bonds and amount available.

Subsec. (h). Pub. L. 87-353 repealed provision respecting execution of instruments by Federal land banks and deleted "such" preceding "instrument".

Subsec. (i). Pub. L. 87-353 repealed subsec. (i), which related to rate of interest payable on certain installment dates.

1959—Subsec. (c). Pub. L. 86-168 substituted "Federal land bank associations" for "national farm loan associations".

1947—Subsec. (a). Act June 30, 1947, repealed subsec. (a).

1946—Subsec. (g). Act July 12, 1946, substituted "July 1, 1947" for "July 1, 1946".

1945—Subsec. (c). Act June 30, 1945, § 11, struck out "interest on unpaid principal at a rate not to exceed 5 per centum per annum" and inserted in lieu thereof "interest on unpaid principal at a rate of 1 per centum per annum higher than the rate on loans through national farm loan associations made at the same time by the Federal land bank in the farm credit district in which the security for the loan under this section is located: *Provided, however,* That loans guaranteed under title III of the Servicemen's Readjustment Act of 1944 may be made at such lower rate as may be necessary to qualify them for such guaranty" in cl. (1).

Subsec. (c)(1). Act June 30, 1945, § 12, added subsec. (c)(1).

Subsec. (g). Act June 30, 1945, § 13, substituted "July 1, 1946" for "July 1, 1945".

1944—Subsec. (i). Act June 30, 1944, added ", and shall not exceed 4 per centum per annum for all interest payable on installment dates occurring on or after July 1, 1944, and prior to July 1, 1945".

1943—Subsec. (g). Act June 26, 1943, substituted "July 1, 1945" for "July 1, 1943".

1942—Subsec. (g). Act June 3, 1942, substituted "July 1, 1943" for "June 1, 1942".

Subsec. (i). Act June 27, 1942, substituted "July 1, 1944" for "July 1, 1942".

1940—Subsec. (g). Act Feb. 1, 1940, substituted "June 1, 1942" for "Feb. 1, 1940".

Subsec. (i). Act June 29, 1940, added "and shall not exceed 3½ per centum per annum for all interest payable on installment dates occurring on or after July 1, 1940, and prior to July 1, 1942".

1938—Subsec. (i). Act June 16, 1938, among other changes, inserted "occurring on or after July 22, 1937 and prior to July 1, 1940".

1937—Subsec. (c). Act Aug. 19, 1937, § 14, amended proviso.

Subsec. (i). Act July 22, 1937, added subsec. (i).

Act Aug. 19, 1937, § 13, omitted "either" following "Refinancing" and "or otherwise" following "Title II".

1935—Subsec. (c). Act June 3, 1935, § 2(a), struck out "and made for the purpose of reducing and refinancing an existing mortgage," which followed "real property".

Subsec. (e). Act June 3, 1935, § 2(b), amended first sentence.

Subsec. (f). Act June 3, 1935, § 2(c), inserted "who is at the time or shortly to become" and "or livestock raising", in cl. 1 and added clauses (2) and (3) and last sentence.

Subsec. (g). Act June 3, 1935, § 2(d), among other changes, substituted "February 1, 1940" for "February 1, 1936".

Subsec. (h). Act June 3, 1935, § 2(e), added subsec. (h).

1934—Subsec. (b). Act Jan 31, 1934, § 10, substituted "$7,500" for "$5,000".

Subsec. (e). Act June 11, 1934, struck out "which has been foreclosed at any time between July 1, 1931, and the date of the enactment of this Act, or which is foreclosed after the enactment of this Act" from last part of first sentence.

Subsec. (g). Act Jan. 31, 1934, § 9, added subsec. (g).

CHANGE OF NAME

Act June 16, 1933, substituted "Land Bank Commissioner" for "Farm Loan Commissioner".

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-168 effective Dec. 31, 1959, see section 104(k) of Pub. L. 86-168.

SEPARABILITY OF PROVISIONS

Section 17 of act June 30, 1945, provided that: "The sections, subsections, paragraphs, and provisos of this Act [former sections 672, 694b, 712, 745, 751 to 753, 771, 781, 857, 861, 874, and 880 and section 1016 of this title] are hereby declared to be separable, and if any one or more of the sections, subsections, paragraphs, or provisos of this Act, or the application thereof to any person or circumstance, should be held to be unconstitutional or invalid for any other reason, the validity of other sections, subsections, paragraphs, and provisos of this Act, and the application thereof to other persons or circumstances, shall not be affected thereby."

Section 40 of act Aug. 19, 1937, provided:

"(a) If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

"(b) The right to alter, amend, or repeal this act is hereby expressly reserved."

REPEAL OF AUTHORITY

Repeal of authority of the Farm Credit Administration to make emergency crop production, feed, seed, drought, and rehabilitation loans on Aug. 14, 1946, see note set out under former sections 1001 to 1005d of Title 7, Agriculture.

ABOLISHMENT OF OFFICE OF LAND BANK COMMISSIONER

Office of Land Bank Commissioner was abolished by former section 636f(a) of this title.

ABOLITION OF FEDERAL FARM MORTGAGE CORPORATION

Abolition of Federal Farm Mortgage Corporation by Pub. L. 87-353, §§ 1, 2, Oct. 4, 1961, 75 Stat. 773, see note under former sections 1020 to 1020a-1 of this title.

§§ 1017 to 1019. Repealed. Pub. L. 87-353, § 3(b), Oct. 4, 1961, 75 Stat. 773

Section 1017, acts May 12, 1933, ch. 25, title II, § 33, 48 Stat. 49; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273, authorized the Land Bank Commissioner to make rules and regulations and to appoint, employ and fix the compensation of officers, employees, attorneys and agents.

Section 1018, acts May 12, 1933, ch. 25, title II, § 34, 48 Stat. 49; June 16, 1933, ch. 98, title VIII, § 80(a), 48 Stat. 273, related to the making available to the Land Bank Commissioner of facilities of Federal land banks and Federal land bank associations.

Section 1019, act May 12, 1933, ch. 25, title II, § 35, 48 Stat. 49, prescribed a penalty of not more than $1,000 fine or six months' imprisonment or both for false representations in obtaining loan.

SUBCHAPTER II-A—FEDERAL FARM MORTGAGE CORPORATION

§§ 1020 to 1020a-1. Repealed. Pub. L. 87-353, § 3(a), (v), Oct. 4, 1961, 75 Stat. 773, 774

Section 1020, act Jan. 31, 1934, ch. 7, § 1, 48 Stat. 344, provided for establishment of the Federal Farm Mortgage Corporation, and for board of directors, bylaws, regulations and employment of officers and employees.

Section 1020a, act Jan. 31, 1934, ch. 7, § 2, 48 Stat. 345, related to the period of succession of the Federal Farm Mortgage Corporation, its powers, the free use of the mails and use of Government facilities.

Section 1020a-1, act Sept. 21, 1944, ch. 412, title VI, § 603, 58 Stat. 741, provided for treatment of capital investment expenditures as nonadministrative expenses.

ABOLITION OF FEDERAL FARM MORTGAGE CORPORATION

Pub. L. 87-353, §§ 1, 2, Oct. 4, 1961, 75 Stat. 773 abolished the Federal Farm Mortgage Corporation established by the Act of Jan. 31, 1934, 48 Stat. 344, formerly set out in section 1020 of this title, terminated all powers and functions of the Corporation, transferred all assets owned by the Corporation and all authority of the Corporation relating to the collection of notes receivable from Federal land banks to the Secretary of the Treasury, authorized the Federal land bank of the appropriate district to execute in its own name or the name of the Corporation any instrument necessary to perfect title to real property (other than reserved mineral interests) which appeared to be in the Land Bank Commissioner in a particular district or the Corporation, reserved mineral interests of the Corporation which were not disposed of to the United States of America to be administered by the Secretary of the Interior, provided that any moneys collected by the Secretary of the Treasury by virtue of the act be deposited in the general fund of the Treasury as miscellaneous receipts and further provided that no proceeding commenced by or against the Corporation would abate as the court on motion filed within twelve months after the date of enactment of the act (Oct. 4, 1961) could allow the same to be maintained by or against the Secretary of the Treasury.

§§ 1020a-2, 1020a-3. Omitted

CODIFICATION

Section 1020a-2, act June 4, 1956, ch. 355, title IV, § 401, 70 Stat. 239, which related to maximum amounts available for administrative expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts.

Section 1020a-3, Pub. L. 87-112, title IV, § 401, July 26, 1961, 75 Stat. 240, which limited the aggregate amount of bonds issued and outstanding, was from the Department of Agriculture and Related Agencies Appropriation Act, 1962, and was not repeated in subsequent appropriations acts.

SIMILAR PROVISIONS

Similar provisions to section 1020a-2 of this title were contained in the following acts:
May 23, 1955, ch. 43, title IV, § 401, 69 Stat. 62.
June 29, 1954, ch. 409, title IV, § 401, 68 Stat. 317.
July 28, 1953, ch. 251, title II, § 201, 67 Stat. 222.
July 5, 1952, ch. 574, title II, § 201, 66 Stat. 353.
Aug. 31, 1951, ch. 374, title III, § 301, 65 Stat. 244.
Sept. 6, 1950, ch. 896, ch. VI, title II, § 201, 64, Stat. 677.
June 29, 1949, ch. 280, title II, § 201, 63 Stat. 346, 347.

Similar provisions to section 1020a-3 of this title were contained in the following acts:
June 29, 1960, Pub. L. 86-532, title III, § 301, 74 Stat. 244.
July 8, 1959, Pub. L. 86-80, title III, § 301, 73 Stat. 179.
June 13, 1958, Pub. L. 85-459, title III, § 301, 72 Stat. 199.
Aug. 2, 1957, Pub. L. 85-118, title IV, § 401, 71 Stat. 339.

§§ 1020b, 1020c. Repealed. Pub. L. 87-353, § 3(a), Oct. 4, 1961, 75 Stat. 773

Section 1020b, acts Jan. 31, 1934, ch. 7, § 3, 48 Stat. 345; June 25, 1940, ch. 427, § 4, 54 Stat. 573; June 30, 1945, ch. 204, § 14, 59 Stat. 269; July 12, 1946, ch. 570, § 2, 60 Stat. 532, prescribed the capital of the Federal Farm Mortgage Corporation to be in the sum of $200,000,000 and provided for subscription by the United States and repayment by the Corporation.

Section 1020c, acts Jan. 31, 1934, ch. 7, § 4(a), 48 Stat. 345; Apr. 27, 1934, ch. 168, § 14, 48 Stat. 647, authorized the issuance of bonds not exceeding $2,000,000,000 at any one time and provided for purchase and sale by United States and exchange of such bonds for consolidated farm loan bonds.

§ 1020c-1. Omitted

CODIFICATION

Section, act June 4, 1956, ch. 355, title IV, § 401, 70 Stat. 240, which limited the aggregate amount of bonds issued and outstanding, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts.

SIMILAR PROVISIONS

Similar provisions to section 1020c-1 of this title were contained in the following acts:
May 23, 1955, ch. 43, title IV, § 401, 69 Stat. 62.
June 29, 1954, ch. 409, title IV, § 401, 68 Stat. 318.
July 28, 1953, ch. 251, title II, § 201, 67 Stat. 222.
July 5, 1952, ch. 574, title II, § 201, 66 Stat. 353.
Aug. 31, 1951, ch. 374, title III, § 301, 65 Stat. 244.
Sept. 6, 1950, ch. 896, ch. VI, title II, § 201, 64 Stat. 678.
June 29, 1949, ch. 280, title II, § 201, 63 Stat. 347.
June 30, 1948, ch. 773, title II, § 201, 62 Stat. 1185.

§§ 1020d to 1020h. Repealed. Pub. L. 87-353, § 3(a), Oct. 4, 1961, 75 Stat. 773

Section 1020d, acts Jan. 31, 1934, ch. 7, § 4(b), 48 Stat. 346; Aug. 19, 1937, ch. 704, §§ 2, 4, 50 Stat. 703; June 30, 1945, ch. 204, § 15, 59 Stat. 269, provided for the purchase of consolidated farm loan bonds, loans to Federal and joint-stock land banks, investment in mortgages, extensions, and sale and assignment of notes and mortgages.

Section 1020e, act Jan. 31, 1934, ch. 7, § 4(c), 48 Stat. 346, related to preparation of bonds.

Section 1020f, acts Jan. 31, 1934, ch. 7, § 12, 48 Stat. 347; Feb. 26, 1934, ch. 33, 48 Stat. 360, provided for exemptions from taxation.

Sections 1020g, 1020h, act Jan. 31, 1934, ch. 7, §§ 17, 18, 48 Stat. 348, 349, related to the severability clause and reservation of right to amend, and short title, respectively.

SUBCHAPTER II-B—LOANS TO FARMERS BY GOVERNOR OF FARM CREDIT ADMINISTRATION

§§ 1020i to 1020n. Repealed. Aug. 14, 1946, ch. 964, § 2(a)(2), 60 Stat. 1062

Sections 1020i to 1020n, act Jan. 29, 1937, ch. 7, §§ 1 to 6, 50 Stat. 5, provided for loans to farmers by the Governor of the Farm Credit Administration for production and harvesting of crops, feed for livestock and other related purposes.

§ 1020n-1. Omitted

CODIFICATION

Section, acts June 30, 1939, ch. 253, title II, 53 Stat. 979; June 25, 1940, ch. 421, § 1, 54 Stat. 569; July 1, 1941, ch. 267, § 1, 55 Stat. 444; July 22, 1942, ch. 516, § 1, 56 Stat. 701, related to the personal liability of Federal employees approving loans fraudulently obtained under former sections 1020i to 1020n and 1020o of this title, which were repealed by act Aug. 14, 1946, ch. 964, § 2(a)(2), 60 Stat. 1062.

§ 1020o. Repealed. Aug. 14, 1946, ch. 964, § 2(a)(2), 60 Stat. 1062

Section, act Jan. 29, 1937, ch. 7, § 7, 50 Stat. 7, related to appropriations and expenditures for loans under former sections 1020i to 1020n of this title.

SUBCHAPTER III—FEDERAL INTERMEDIATE CREDIT BANKS

CODIFICATION

Provisions of this subchapter concerning Federal intermediate credit banks constituted title II of the Federal Farm Loan Act, act July 17, 1916, ch. 245, 39 Stat. 360, as added to that act by act Mar. 4, 1923, ch. 252, title I, 42 Stat. 1454. The Federal Farm Loan Act was repealed by Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624.

This subchapter formerly constituted chapter 8 of this title.

ORGANIZATION

§§ 1021 to 1023. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1021, act July 17, 1916, ch. 245, title II, § 201(a), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1454, and amended Ex. Ord. No. 6084, Mar. 27, 1933, authorized the Farm Credit Administration to grant charters for 12 intermediate credit banks and is now covered by section 2071 of this title.

Section 1022, act July 17, 1916, ch. 245, title II, § 201 (b), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1454, and amended June 16, 1933, ch. 98, title VII, § 76(a), 48 Stat. 271; Aug. 19, 1937, ch. 704, § 10, 50 Stat. 707; July 26, 1956, ch. 741, title I, § 104(a), 70 Stat. 663, covered the location, directors, officers, employees, and by-laws of intermediate credit banks and is now covered by section 2072 of this title.

Section 1023, act July 17, 1916, ch. 245, title II, § 201(c), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1454, and amended Aug. 19, 1937, ch. 704, § 26, 50 Stat. 715, set out the corporate powers of intermediate credit banks and is now covered by section 2072 of this title.

§ 1023a. Omitted

CODIFICATION

Section, Pub. L. 85-459, title III, § 301, June 13, 1958, 72 Stat. 199, which related to availability of funds for administrative expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959, and was not repeated in subsequent appropriation acts.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Aug. 2, 1957, Pub. L. 85-118, title IV, § 401, 71 Stat. 339.

June 4, 1956, ch. 355, title IV, § 401, 70 Stat. 240.

May 23, 1955, ch. 43, title IV, § 401, 69 Stat. 62.

June 29, 1954, ch. 409, title IV, § 401, 68 Stat. 318.

July 28, 1953, ch. 251, title II, § 201, 67 Stat. 222.

July 5, 1952, ch. 574, title II, § 201, 66 Stat. 353.

Aug. 31, 1951, ch. 374, title III, § 301, 65 Stat. 244.

Sept. 6, 1950, ch. 896, ch. VI, title II, § 201, 64 Stat. 678.

June 29, 1949, ch. 280, title II, § 201, 63 Stat. 346, 347.

§§ 1023b to 1027. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1023b, act July 26, 1956, ch. 741, title II, § 201(b), 70 Stat. 667, provided for the utilization of funds for administrative expenses of intermediate credit banks.

Section 1024, act July 17, 1916, ch. 245, title II, § 201(d), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1454, authorized intermediate credit banks to serve as fiscal agents for the United States.

Section 1025, act July 17, 1916, ch. 245, title II, § 201(e), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1454, and amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(h), 73 Stat. 387, covered insolvency and receivership of intermediate credit banks.

Section 1026, act July 17, 1916, ch. 245, title II, § 201(f), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1454, and amended Ex. Ord. No. 6084, Mar. 27, 1933, provided for the grant of charters to intermediate credit banks upon application in the form prescribed by the Farm Credit Administration.

Section 1027, act July 26, 1956, ch. 741, title I, § 101(a) to (c), 70 Stat. 659, covered the merger of production credit corporations in the Federal intermediate credit banks.

Section 1027 note, act July 26, 1956, ch. 741, § 2, 70 Stat. 659, set out a Congressional declaration of policy to be followed in construing the provisions of act July 26, 1956.

DISCOUNTS AND LOANS

§§ 1031 to 1033. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1031, act July 17, 1916, ch. 245, title II, § 202(a), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1455, and amended Mar. 4, 1925, ch. 524, § 7, 43 Stat. 1264; June 26, 1930, ch. 616, § 1, 46 Stat. 816; May 19, 1932, ch. 191, § 1, 47 Stat. 159; June 16, 1933, ch. 98, title VII, § 76(b), (c), 48 Stat. 271; Ex. Ord. No. 6084, Mar. 27, 1933; June 3, 1935, ch. 164, § 5(a), (b), 49 Stat. 315; July 26, 1956, ch. 741, title I, § 104(b), 70 Stat. 663; Oct. 4, 1965, Pub. L. 89-237, § 1(a), 79 Stat. 922; Aug. 2, 1966, Pub. L. 89-525, § 3(a), 80 Stat. 334, set out the lending powers of intermediate credit banks and is now covered by section 2074 of this title.

Section 1032, act July 17, 1916, ch. 245, title II, § 202(b), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1455, placed a limitation on the amount of purchases by intermediate credit banks for national banks, state banks, trust companies, or saving institutions.

Section 1033, act July 17, 1916, ch. 245 title II, § 202(c), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1455, and amended June 26, 1930, ch. 616, § 2, 46 Stat. 816; July 26, 1956, ch. 741, title I, § 104(c), 70 Stat. 664; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(f), 73 Stat. 386; Oct. 3, 1961, Pub. L. 87-343, § 1(b), 75 Stat. 758, covered the maturity, sale, and purchase of loans, advances, and discounts of intermediate credit banks.

§ 1034. Repealed. June 3, 1935, ch. 164, § 5(c), 49 Stat. 315

Section, act July 17, 1916, ch. 245, title II, § 202 (d), as added act Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1456, related to interest and discount charges and rediscount of paper of other intermediate credit banks.

ISSUE OF DEBENTURES

§§ 1040 to 1045. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1040, act Aug. 19, 1937, ch. 704, § 39, 50 Stat. 718, defined the terms "debenture" and "debentures" as used in the purchase, sale, or use as security of debentures issued by or for the benefit of intermediate credit banks.

Section 1041, act July 17, 1916, ch. 245, title II, § 203 (a), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1456, and amended Ex. Ord. No. 6084, Mar. 27, 1933; June 3, 1935, ch. 164, § 6(a), 49 Stat. 315; Aug. 19, 1937, ch. 704, § 27, 50 Stat. 715; July 26, 1956, ch. 741, title I, § 104(f), 70 Stat. 664; Oct. 4, 1965, Pub. L. 89-237, § 1(b), 79 Stat. 922; June 18, 1968, Pub. L. 90-345, § 1(a), 82 Stat. 182, empowered intermediate credit banks to borrow money and issue and sell collateral trust debentures and is now covered by section 2074 of this title.

Section 1042, act July 17, 1916, ch. 245, title II, § 203(b), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1456, and amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 28, 50 Stat. 715; Sept. 20, 1966, Pub. L. 89-595, 80 Stat. 821, directed the Farm Credit Administration to prescribe rules and regulations governing collateral and the handling thereof and to fix interest rates.

Section 1043, act July 17, 1916, ch. 245, title II, § 203(c), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1456, and amended Ex. Ord. No. 6084, Mar. 27, 1933, prohibited the assumption of liability on debentures or other obligations issued pursuant to former section 1041 of this title by the United States.

Section 1044, act July 17, 1916, ch. 245, title II, § 203 (d), as added June 3, 1935, ch. 164, § 6(b), 49 Stat. 315, and amended July 26, 1956, ch. 741, title I, § 104(f), 70 Stat. 664, authorized intermediate credit banks to issue and sell consolidated debentures or other similar obligations.

Section 1045, act July 17, 1916, ch. 245, title II, § 203(e), as added June 3, 1935, ch. 164, § 6(b), 49 Stat. 316, and amended July 26, 1956, ch. 741, title I, § 104(f), 70 Stat. 664, covered the investment of fiduciary and trust funds in debentures and other similar obligations of intermediate credit banks and security for public deposits.

DISCOUNT RATES

§§ 1051 to 1053. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1051, act July 17, 1916, ch. 245, title II, § 204(a), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1456, and amended Mar. 4, 1925, ch. 524, § 2, 43 Stat. 1262; Ex. Ord. No. 6084, Mar. 27, 1933; June 3, 1935, ch. 164, § 7, 49 Stat. 316; July 26, 1956, ch. 741, title I, § 104(d), 70 Stat. 664, provided for the discount rates to be charged by intermediate credit banks and is now covered by section 2075 of this title.

Section 1052, act July 17, 1916, ch. 245, title II, § 204(b), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1456, and amended Ex. Ord. No. 6084, Mar. 27, 1933, placed a limitation on interest rate charged original borrower on paper discounted with bank.

Section 1053, act July 17, 1916, ch. 245, title II, § 204 (c), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1456, and amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 29, 50 Stat. 715, covered the purchases by intermediate credit banks of debentures or other similar obligations issued by or for the benefit of such bank or other intermediate credit banks.

CAPITAL STOCK AND PARTICIPATION CERTIFICATES

§§ 1061, 1062. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1061, act July 17, 1916, ch. 245, title II, § 205, as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1457, and amended May 19, 1932, ch. 191, § 2, 47 Stat. 159; Ex. Ord. No. 6084, Mar. 27, 1933; Jan. 31, 1934, ch. 7, § 15(b), (c), 48 Stat. 348; July 26, 1956, ch. 741, title I, § 102, 70 Stat. 660; Oct. 4, 1965, Pub. L. 89–237, § 1(c), 79 Stat. 922; June 18, 1968, Pub. L. 90–345, § 1(b), 82 Stat. 183; Oct. 17, 1968, Pub. L. 90–582, § 1, 82 Stat. 1145, provided for the classes of stock, ownership, dividends, retirement of stock, liens, and participation certificates of intermediate credit banks and is now covered by section 2073 of this title.

Section 1062, act July 17, 1916, ch. 245, title II, § 206 (a), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1457, and amended Mar. 4, 1925, ch. 524, § 1, 43 Stat. 1262, provided for salaries and expenses of the Federal Farm Loan Bureau and for assessments against banks for proportionate share of expense.

APPLICATION OF EARNINGS

§ 1072. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, § 206(b), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1457, and amended Mar. 4, 1925, ch. 524, § 1, 43 Stat. 1262; May 19, 1932, ch. 191, § 3, 47 Stat. 1459; Aug. 19, 1937, ch. 704, § 30, 50 Stat. 715; July 26, 1956, ch. 741, title I, § 103, 70 Stat. 662; Oct. 4, 1965, Pub. L. 89–237, § 1(d), 79 Stat. 923; June 18, 1968, Pub. L. 90–345, § 1(c), 82 Stat. 183, provided for the application of net earnings of intermediate credit banks and is now covered by section 2077 of this title.

LIABILITY ON DEBENTURES OR OTHER SUCH OBLIGATIONS

§ 1081. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, § 207, as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1458, and amended May 19, 1932, ch. 191, § 4, 47 Stat. 159; Ex. Ord. No. 6084, Mar. 27, 1933, covered the liability of intermediate credit banks on debentures or other such obligations and is now covered by section 2074 of this title.

EXAMINATIONS AND REPORTS

§§ 1091 to 1095. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1091, act July 17, 1916, ch. 245, title II, § 208(a), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1458, and amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 20, 50 Stat. 710, authorized the Comptroller of the Currency to furnish reports of condition of banks and other lending institutions rediscounting with intermediate credit banks and covered examinations and audit of credit banks.

Section 1092, act July 17, 1916, ch. 245, title II, § 208(b), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1458, and amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 2, 1966, Pub. L. 89-525, § 3(b), 80 Stat. 334, authorized the Farm Credit Administration to require reports from intermediate credit banks.

Section 1093, act July 17, 1916, ch. 245, title II, § 208(c), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1458, and amended Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 20, 50 Stat. 710; Aug. 18, 1959, Pub. L. 86-168, title I, § 104(g), 73 Stat. 387, covered investigations and reports by farm credit appraisers and examiners.

Section 1094, act July 17, 1916, ch. 245, title II, § 208(d), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1458, and amended Ex. Ord. No. 6084, Mar. 27, 1933, authorized the assessment of the cost of investigations and examination against the organization investigated.

Section 1095, act July 17, 1916, ch. 245, title II, § 208(e), as added June 3, 1935, ch. 164, § 8, 49 Stat. 316, and amended Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704; Aug. 19, 1937, ch. 704, § 31, 50 Stat. 716, provided for reports on condition of institutions receiving loans or deposits.

RULES AND REGULATIONS

§ 1101. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, § 209, as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, and amended Ex. Ord. No. 6084, Mar. 27, 1933, authorized the promulgation of rules and regulations by the Farm Credit Administration covering the operation of intermediate credit banks.

TAX EXEMPTION

§ 1111. Repealed. Pub. L. 92–181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, § 210, as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, set out a tax exemption for the capital and income of intermediate credit banks and provided that their debentures be deemed instrumentalities of the government. See section 2079 of this title.

PENALTY PROVISIONS

§§ 1121 to 1128. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section 1121, act July 17, 1916, ch. 245, title II, § 211 (a), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, relating to offenses by officers, employees, or agents, is covered by sections 657 and 1006 of Title 18, Crimes and Criminal Procedure.

Section 1122, act July 17, 1916, ch. 245, title II, § 211 (b), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, relating to false statements to banks, is covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 1123, act July 17, 1916, ch. 245, title II, § 211 (c), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, relating to overvaluation of property for loan purposes, is covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 1124, act July 17, 1916, ch. 245, title II, § 211 (d), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, relating to offenses by examiners, is covered by sections 213, 1907, and 1909 of Title 18, Crimes and Criminal Procedure.

Section 1125, act July 17, 1916, ch. 245, title II, § 211 (e), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, relating to offenses by officers, employees, and agents, is covered by section 215 of Title 18, Crimes and Criminal Procedure.

Section 1126, act July 17, 1916, ch. 245, title II, § 211 (f), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, relating to forgery and counterfeiting offenses, is covered by section 493 of Title 18, Crimes and Criminal Procedure.

Section 1127, act July 17, 1916, ch. 245, title II, § 211 (g), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, relating to false representations as to debentures, etc., of banks, is covered by section 1013 of Title 18, Crimes and Criminal Procedure.

Section 1128, act July 17, 1916, ch. 245, title II, § 211 (h), as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1459, relating to use of words "Federal intermediate credit bank", is covered by section 709 of Title 18, Crimes and Criminal Procedure.

§ 1129. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act July 17, 1916, ch. 245, title II, § 212, as added Mar. 4, 1923, ch. 252, title I, § 2, 42 Stat. 1461, prohibited the unauthorized charging of fees or commissions by intermediate credit banks.

SUBCHAPTER IV—PRODUCTION CREDIT ASSOCIATIONS

§ 1131. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648

Section, acts June 16, 1933, ch. 98, title I, § 2, 48 Stat. 257; Aug. 19, 1937, ch. 704, § 11, 50 Stat. 708, provided for the establishment of twelve Production Credit Corporations, their locations and officers.

§ 1131a. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act June 16, 1933, ch. 98, title I, § 3, 48 Stat. 257, provided for the granting of a charter to the Production Credit Corporation, and authorized the directors to adopt by-laws. Section 3 of act June 16, 1933, was amended by act July 26, 1956, ch. 741, title I, § 105(b), 70 Stat. 665, to eliminate provisions relating to the Production Credit Corporation. Section 3 of act June 16, 1933, was classified in its entirety to former section 1134a of this title.

§ 1131a-1. Omitted

CODIFICATION

Section, act June 4, 1956, ch. 355, title IV, § 401, 70 Stat. 240, which related to availability of funds for administrative expenses, was from the Department of Agriculture and Farm Credit Administration Appropriation Act, 1957, and was not repeated in subsequent appropriation acts.

SIMILAR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

May 23, 1955, ch. 43, title IV, § 401, 69 Stat. 62.

June 29, 1954, ch. 409, title IV, § 401, 68 Stat. 318.

July 28, 1953, ch. 251, title II, § 201, 67 Stat. 221.

July 5, 1952, ch. 574, title II, § 201, 66 Stat. 353.

Aug. 31, 1951, ch. 374, title III, § 301, 65 Stat. 244.

Sept. 6, 1950, ch. 896, ch. VI, title II, § 201, 64 Stat. 678.

June 29, 1949, ch. 280, title II, § 201, 63 Stat. 346, 347.

§ 1131b. Repealed. July 26, 1956, ch. 741, title I, § 105 (c), 70 Stat. 665

Section, act June 16, 1933, ch. 98, title I, § 4, 48 Stat. 257, provided for the capital stock of Production Credit Corporations, the value of shares, the amount and subscription for initial stock, and payments for stock subscribed on behalf of the United States.

§ 1131c. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 16, 1933, ch. 98, title I, § 6, 48 Stat. 259; Aug. 6, 1953, ch. 335, § 11, 67 Stat. 395; July 26, 1956, ch. 741, title I, § 105(e), 70 Stat. 665; Oct. 17, 1968, Pub. L. 90-582, § 2(a), 82 Stat. 1145, covered the purchase of stock of production credit associations and the payment, retirement, and cancellation of stock and is now covered by section 2094 of this title.

PRODUCTION CREDIT ASSOCIATIONS

§§ 1131d to 1131g. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1131d, acts June 16, 1933, ch. 98, title II, § 20, 48 Stat. 259; July 26, 1956, ch. 741, title I, § 105(f), 70 Stat. 665, authorized the organization of production credit associations and provided for charters, bylaws, powers of governor, and other powers of such associations and is now covered by section 2093 of this title.

Section 1131e, acts June 16, 1933, ch. 98, title II, § 21, 48 Stat. 260; Aug. 11, 1955, ch. 785, title II, § 201, 69 Stat. 663; July 26, 1956, ch. 741, title I, § 105(g), 70 Stat. 665, provided for the capital stock of production credit associations and its value, classes, voting rights, limitations on transfer, exchange, and dividends and is now covered by section 2094 of this title.

Section 1131e-1, acts Aug. 6, 1953, ch. 335, § 16, 67 Stat. 399; July 26, 1956, ch. 741, title I, § 107(b), 70 Stat. 666; Oct. 17, 1968, Pub. L. 90-582, § 2(b), 82 Stat. 1145, provided for the issuance of class C stock for production credit associations and the conditions, privileges, restrictions, limitations, and qualifications placed on such stock.

Section 1131f, acts June 16, 1933, ch. 98, title II, § 22, 48 Stat. 261; Aug. 11, 1955, ch. 785, title II, § 202, 69 Stat. 663; July 26, 1956, ch. 741, title I, § 105(h), 70 Stat. 665; Oct. 3, 1961, Pub. L. 87-343, § 2(2), 75 Stat. 758; Oct. 4, 1965, Pub. L. 89-237, § 2(a), 78 Stat. 924, covered the application of earnings of production credit associations and the restoration of capital, impairment, surplus account, distribution of earnings, and allocation on a patronage basis and is now covered by section 2095 of this title.

Section 1131g, acts June 16, 1933, ch. 98, title II, § 23, 48 Stat. 261; Aug. 11, 1955, ch. 785, title II, § 204, 69 Stat. 663; July 26, 1956, ch. 741, title I, § 105(i), 70 Stat. 665; Oct. 4, 1965, Pub. L. 89-237, § 2(b), 79 Stat. 924; Dec. 15, 1967, Pub. L. 90-204, § 3(a), 81 Stat. 612; June 18, 1968, Pub. L. 90-345, § 2, 82 Stat. 183, authorized loans to farmers by production credit associations, terms and conditions, rates of interest, security, limitations on indebtedness, ownership of stock, and investments in equity reserve and is now covered by section 2096 of this title.

§ 1131g-1. Repealed. July 26, 1956, ch. 741, title I, § 105(q), 70 Stat. 666

Section, act June 16, 1933, ch. 98, title VIII, § 86a, as added June 27, 1934, ch. 847, title V, § 504, 48 Stat. 1263, which was formerly designated section 1131gg of this title, authorized production credit associations to make loans to farmers for home alterations, repairs and improvements without the purchase of class B stock, and permitted the associations to sell, discount, assign, or otherwise dispose of such loans.

§§ 1131g-2, 1131h. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1131g-2, acts June 18, 1934, ch. 574, 48 Stat. 983; June 3, 1935, ch. 164, § 17(c), 49 Stat. 318, provided for loans to oyster planters and the purchase and discount of paper by intermediate credit banks.

Section 1131h, act June 16, 1933, ch. 98, title II, § 24, 48 Stat. 261, covered borrowing from and rediscounting paper with intermediate credit banks and limitations on power to borrow from or rediscount paper with other institutions.

REVOLVING FUND

§ 1131i. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 16, 1933, ch. 98, title I, § 5, 48 Stat. 258; Jan. 31, 1934, ch. 7, §§ 14, 15(a), 48 Stat. 348; July 26, 1956, ch. 741, title I, § 105(d), 70 Stat. 665; Oct. 3, 1961, Pub. L. 87-343, § 2(*l*), 75 Stat. 758, provided for a revolving fund for investment in production credit as-

sociation and intermediate credit banks. See Revolving Funds note under section 2152 of this title.

§ 1131j. Transferred

CODIFICATION

Section, acts June 18, 1934, ch. 574, 48 Stat. 983; June 3, 1935, ch. 164, § 17 (c), 49 Stat. 316, transferred to former section 1131g-2 of this title.

SUBCHAPTER V—REGIONAL BANKS FOR COOPERATIVES AND CENTRAL BANK FOR COOPERATIVES

REGIONAL BANKS

§§ 1134 to 1134e. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1134, acts June 16, 1933, ch. 98 title I, § 2, 48 Stat. 257; Aug. 19, 1937, ch. 704, § 11, 50 Stat. 708; July 26, 1956, ch. 741, title I, § 105(a), 70 Stat. 664, authorized the creation of regional banks for cooperatives and the establishment of boards of directors of such banks and is now covered by section 2121 of this title.

Section 1134a, acts June 16, 1933, ch. 98, title I, § 3, 48 Stat. 257; July 26, 1956, ch. 741, title I, § 105(b), 70 Stat. 665, provided for charters and bylaws for banks for cooperatives and is now covered by section 2121 of this title.

Section 1134b, act June 16, 1933, ch. 98, title IV, § 40, 48 Stat. 264, provided for the capital stock of banks for cooperatives and its amounts, value, and payments and is now covered by section 2124 of this title.

Section 1134c, acts June 16, 1933, ch. 98, title IV, § 41, 48 Stat. 264; June 3, 1935, ch. 164, § 14, 49 Stat. 317; Aug. 19, 1937, ch. 704, § 36, 50 Stat. 717; Oct. 31, 1949, ch. 792, title IV, § 417(a), 63 Stat. 1058; Aug. 11, 1955, ch. 785, title I, § 107, 69 Stat. 662; July 26, 1956, ch. 741, title I, § 105(k), 70 Stat. 665; Aug. 2, 1966, Pub. L. 89-525, § 4(a), 80 Stat. 334; Dec. 15, 1967, Pub. L. 90-204, § 3(b), 81 Stat. 612, covered the lending powers of banks for cooperatives and is now covered by section 2122 of this title.

Section 1134d, acts June 16, 1933, ch. 98, title IV, § 42, 48 Stat. 264; Aug. 6, 1953, ch. 335, § 13, 67 Stat. 396; Aug. 11, 1955, ch. 785, title I, § 101, 69 Stat. 655, provided for the stock of banks for cooperatives and is now covered by section 2124 of this title.

Section 1134e, acts June 16, 1933, ch. 98, title IV, § 43, 48 Stat. 265; Oct. 17, 1968, Pub.L. 90-582, § 3, 82 Stat. 1145, provided for the retirement of stock in banks for cooperatives held by the government and is now covered by section 2126 of this title.

CENTRAL BANK

§§ 1134f to 1134m. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1134f, act June 16, 1933, ch. 98, title III, § 30, 48 Stat. 261, authorized the creation of a central bank for cooperatives and is now covered by section 2121 of this title.

Section 1134g, acts June 16, 1933, ch. 98, title III, § 31, 48 Stat. 262; Aug. 11, 1955, ch. 785, title I, § 104, 69 Stat. 659; June 11, 1960, Pub. L. 86-503, § 1 (part), 74 Stat. 197, provided for a board of directors for the central bank for cooperatives and is now covered by section 2123 of this title.

Section 1134h, acts June 16, 1933, ch. 98, title III, § 32, 48 Stat. 262; Aug. 11, 1955, ch. 785, title I, § 105, 69 Stat. 661, set out the powers of the board of directors for the central bank for cooperative and is now covered by section 2123 of this title.

Section 1134i, acts June 16, 1933, ch. 98, title III, § 33, 48 Stat. 262; Aug. 11, 1955, ch. 785, title I, § 108(a), 69 Stat. 662, provided for the capital stock of the central bank for cooperatives and is now covered by section 2124 of this title.

Section 1134j, acts June 16, 1933, ch. 98, title III, §§ 34, 38, 48 Stat. 262, 264; June 3, 1935, ch. 164, § 13, 49 Stat. 317; Aug. 19, 1937, ch. 704, § 35, 50 Stat. 716; Oct. 31, 1949, ch. 792, title IV, § 417(b), 63 Stat. 1059; Aug. 11, 1955, ch. 785, title I, §§ 106, 108(b), 69 Stat. 661, 662; July 26, 1956, ch. 741, title I, § 105(j), 70 Stat. 665; Aug. 2, 1966, Pub. L. 89-525, § 4(a), 80 Stat. 334; Dec. 15, 1967, Pub. L. 90-204, § 3(b), 81 Stat. 612, authorized the central bank to make loans and provided for the prevention of duplication of effort on the part of the central bank and banks for cooperatives and is now covered by section 2122 of this title.

Section 1134k, acts June 16, 1933, ch. 98, title III, § 35, 48 Stat. 263; June 3, 1935, ch. 164, § 15, 49 Stat. 318; Aug. 11, 1955, ch. 785, title I, § 102, 69 Stat. 658, made regional bank stock provisions applicable to ownership of stock by central bank borrowers and provided for payments for such stock and is now covered by section 2130 of this title.

Section 1134*l*, acts June 16, 1933, ch. 98, title III, § 36, 48 Stat. 263; Aug. 6, 1953, ch. 335, § 12, 67 Stat. 395; Aug. 11, 1955, ch. 785, title I, § 103(a), 69 Stat. 658; Oct. 3, 1961, Pub. L. 87-343, § 2(3), 75 Stat. 758; Aug. 31, 1964, Pub. L. 88-528, 78 Stat. 736, provided for the disposition of earnings and the maintenance of reserves of the central bank and is now covered by section 2132 of this title.

Section 1134m, acts June 16, 1933, ch. 98, title III, § 37, 48 Stat. 263; Aug. 23, 1954, ch. 834, § 1, 68 Stat. 770, covered debentures, amount of such debentures, security, preparation, and issuance of such debentures, and consolidated debentures of central and regional banks for cooperatives and is now covered by section 2153 of this title.

SUBCHAPTER VI—PROVISIONS COMMON TO PRODUCTION CREDIT ASSOCIATIONS, AND REGIONAL AND CENTRAL BANKS FOR COOPERATIVES

§§ 1138 to 1138c. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section 1138, acts June 16, 1933, ch. 98, title VI, § 60, 48 Stat. 266; Aug. 19, 1937, ch. 704, § 5(a), 50 Stat. 704; July 26, 1956, ch. 741, title I, § 105(*l*), 70 Stat. 666, set out the general corporate powers common to banks for cooperatives and production credit associations and is now covered by sections 2093 and 2122 of this title.

Section 1138a, acts June 16, 1933, ch. 98, title VI, § 61, 48 Stat. 267; July 26, 1956, ch. 741, title I, § 105(m), 70 Stat. 666, provided for examination of parts of the farm credit system by examiners of the Farm Credit Administration and is now covered by section 2254 of this title.

Section 1138b, acts June 16, 1933, ch. 98, title VI, § 62, 48 Stat. 267; Jan. 31, 1934, ch. 7, § 11, 48 Stat. 347; July 26, 1956, ch. 741, title I, § 105(n), 70 Stat. 666; Oct. 4, 1961, Pub. L. 87-353, § 3(j), 75 Stat. 774, gave designated parts of the farm credit system authority to act as fiscal agents of the United States.

Section 1138c, acts June 16, 1933, ch. 98, title VI, § 63, 48 Stat. 267, Aug. 11, 1955, ch. 785, title II, § 205, 69 Stat. 663; July 26, 1956, ch. 741, title I, § 105(o), 70 Stat. 666, provided that obligations of banks for cooperatives and production credit associations be deemed instrumentalities of the United States and provided for the termination of tax exemption after the retirement of government-owned stock and is now covered by sections 2098 and 2134 of this title.

§ 1138d. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts June 16, 1933, ch. 98, title VI, § 64, 48 Stat. 267; Jan. 31, 1934, ch. 7, § 13, 48 Stat. 347, relating to offenses and penalties, is covered by sections 371, 433, 493, 657, 658, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

§ 1138e. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 16, 1933, ch. 98, title VI, § 65, 48 Stat. 269; Aug. 11, 1955, ch. 785, title I, § 110(a), 69 Stat. 662; July 26, 1956, ch. 741, title I, § 105(p), 70 Stat. 666, provided for receivership and voluntary liquidation for production credit associations and banks for cooperatives and is now covered by section 2183 of this title.

§ 1138f. Repealed. Aug. 11, 1955, ch. 785, title I, § 110 (b), 69 Stat. 662

Section, acts June 16, 1938, ch. 98, title VI, § 66, 48 Stat. 269; Oct. 28, 1949, ch. 782, title XII, § 1201, 63 Stat. 972; Oct. 24, 1951, ch. 554, § 3, 65 Stat. 614; June 28, 1955, ch. 189, § 5, 69 Stat. 178, limited to $14,620 per annum the compensation which could be paid directors, officers, or employees of the banks for cooperatives, production credit corporations, and production credit associations.

EFFECTIVE DATE OF REPEAL

Repeal by act Aug. 11, 1955, effective on the first day of the month next following 120 days after Aug. 11, 1955.

CHAPTER 7A—AGRICULTURAL MARKETING

Sec.
1141. Declaration of policy; effective merchandising of agricultural commodities; speculation; cooperative marketing; surpluses; administration of chapter.
1141a. Repealed.
1141b. General powers of Farm Credit Administration.
1141c. Special powers of administration.
1141d. Revolving fund.
1141d-1. Interest rates on loans made from revolving fund.
1141e. Loans to cooperative associations.
1141f. Miscellaneous loan provisions.
1141g. Omitted.
1141h. Avoidance of duplication; cooperation with other governmental establishments; obtaining information and data; cooperation with States, Territories, and agencies or subdivisions thereof; indicating research problems; transfer of offices, functions, etc.
1141i. Examination of books and accounts.
1141j. Miscellaneous provisions.
(a) "Cooperative association" defined.
(b) Speculation prohibited.
(c) Confidential information; disclosure prohibited.
(d) Governmental publications; predictions as to cotton prices prohibited.
(e) Separability clause.
(f) Citation of chapter.
(g) "Agricultural commodity"; definition.

CODIFICATION

This chapter contains the Agricultural Marketing Act, approved June 15, 1929.

In view of the amendments to the Agricultural Marketing Act made by the Farm Credit Act of 1933, approved June 16, 1933, and by the Farm Credit Act of 1935, approved June 3, 1935, and of the transfer of its administration to the Governor of the Farm Credit Administration by Executive Order No. 6084, set out preceding section 2241 of this title, the provisions of the Agricultural Marketing Act, as amended, have been transferred to this chapter from Title 7, Agriculture.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1150a of this title; title 15 section 78*l*.

§ 1141. Declaration of policy; effective merchandising of agricultural commodities; speculation; cooperative marketing; surpluses; administration of chapter

(a) It is declared to be the policy of Congress to promote the effective merchandising of agricultural commodities in interstate and foreign commerce so that the industry of agriculture will be placed on a basis of economic equality with other industries, and to that end to protect, control, and stabilize the currents of interstate and foreign commerce in the marketing of agricultural commodities and their food products—

(1) by minimizing speculation.

(2) by preventing inefficient and wasteful methods of distribution.

(3) by encouraging the organization of producers into effective associations or corporations under their own control for greater unity of effort in marketing and by promoting the establishment and financing of a farm marketing system of producer-owned and producer-controlled cooperative associations and other agencies.

(4) by aiding in preventing and controlling surpluses in any agricultural commodity, through orderly production and distribution, so as to maintain advantageous domestic markets and prevent such surpluses from causing undue and excessive fluctuations or depressions in prices for the commodity.

(b) There shall be considered as a surplus for the purposes of this chapter any seasonal or year's total surplus, produced in the United States and either local or national in extent, that is in excess of the requirements for the orderly distribution of the agricultural commodity or is in excess of the domestic requirements for such commodity.

(c) The Farm Credit Administration shall execute the powers vested in it by this chapter only in such manner as will, in the judgment of the administration, aid to the fullest practicable extent in carrying out the policy above declared.

(June 15, 1929, ch. 24, § 1, 46 Stat. 11; Ex. Ord. No. 6084, Mar. 27, 1933.)

CODIFICATION

Section was formerly classified to section 521 of Title 7, Agriculture.

CHANGE OF NAME

"Farm Credit Administration" and "administration" were substituted for "Federal Farm Loan Board" and "board", respectively, pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

SHORT TITLE

Agricultural Marketing Act as short title of this chapter, see section 1141j(f) of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration and duties thereof, including duty to

perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer, or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1141b, 1141e of this title.

§ 1141a. Repealed. Aug. 6, 1953, ch. 335, § 19, 67 Stat. 400

Section, act June 15, 1929, ch. 24, § 2, 46 Stat. 11; Ex. Ord. No. 6084, Mar. 27, 1943; act Oct. 15, 1949, ch. 695, § 6(a), 63 Stat. 881, which related to appointment, compensation, qualifications, term of office, and expenses of the Governor of the Farm Credit Administration, is covered by section 2244 et seq. of this title.

§ 1141b. General powers of Farm Credit Administration

The Farm Credit Administration—

(1) shall maintain its principal office in the District of Columbia, and such other offices in the United States as in its judgment are necessary.

(2) shall have an official seal which shall be judicially noticed.

(3) shall make an annual report to Congress upon the administration of this chapter and any other matter relating to the better effectuation of the policy declared in section 1141 of this title, including recommendations for legislation.

(4) may make such regulations as are necessary to execute the functions vested in it by this chapter.

(5) may appoint and fix the salaries of a secretary and such experts, and, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, and subject to the provisions of the civil service laws, such other officers and employees as are necessary to execute such functions.

(6) may make such expenditures (including expenditures for rent and personal services at the seat of government and elsewhere, for law books, periodicals, and books of reference, and for printing and binding) as are necessary to execute such functions. Expenditures by the administration shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the governor of the administration.

(7) may sell at public or private sale to the highest responsible bidder, upon such terms and after such public advertisement as the Farm Credit Administration may deem in the public interest, any property, real or personal, or any interest therein, acquired by the United States on account of or as a result of any loans made from the revolving fund authorized by section 1141d of this title; may lease any such property, pending its sale, on such terms and for such period, not in excess of five years, as the Farm Credit Administration may deem in the public interest; and may incur and pay, from the said revolving fund, obligations and expenses for the operation, upkeep, maintenance, repair, disposition, insurance, and protection of any such property: *Provided,* That section 5 of title 41 shall not be construed to apply to any purchase or service on account of such property.

(June 15, 1929, ch. 24, § 4, 46 Stat. 13; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 19, 1937, ch. 704, § 37, 50 Stat. 717; Oct. 28, 1949, ch. 782, title XI, § 1106(a), 63 Stat. 972.)

REFERENCES IN TEXT

The civil service laws, referred to in par. (5), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

CODIFICATION

In par. (5), "chapter 51 and subchapter III of chapter 53 of title 5" were substituted for "the Classification Act of 1949" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Section was formerly classified to section 524 of Title 7, Agriculture.

AMENDMENTS

1949—Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923".

1937—Par. (7). Act Aug. 19, 1937 added par. (7).

CHANGE OF NAME

"Farm Credit Administration" and "administration" were substituted for "board" and "governor" was substituted for "chairman" pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

REPEALS

Act Oct. 28, 1949, ch. 782, § 1106(a), 63 Stat. 972, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

REPEAL OF AUTHORITY

Repeal of authority of the Farm Credit Administration to make emergency crop production, feed, seed, drought, and rehabilitation loans on Aug. 14, 1946, see note set out under former sections 1001 to 1005d of Title 7, Agriculture.

SEPARABILITY OF PROVISIONS

Section 40 of act Aug. 19, 1937, provided as follows:

"Sec. 40. (a) If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

"(b) The right to alter, amend, or repeal this Act is hereby expressly reserved."

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219,

67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

§ 1141c. Special powers of administration

The administration is authorized and directed—

(1) to promote education in the principles and practices of cooperative marketing of agricultural commodities and food products thereof.

(2) to encourage the organization, improvement in methods, and development of effective cooperative associations.

(3) to keep advised from any available sources and make reports as to crop prices, experiences, prospects, supply, and demand, at home and abroad.

(June 15, 1929, ch. 24, § 5, 46 Stat. 13; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title V, § 50(a), 48 Stat. 265.)

CODIFICATION

Section was formerly classified to section 525 of Title 7, Agriculture.

AMENDMENTS

1933—Act June 16, 1933, repealed pars. (4) and (5) of this section relating to powers of the Farm Board to investigate overproduction and to miscellaneous investigations by the Farm Board.

CHANGE OF NAME

"Administration" was substituted for "board" pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

§ 1141d. Revolving fund

There is authorized to be appropriated the sum of $500,000,000 which shall be made available by the Congress as soon as practicable after the approval of this chapter and shall constitute a revolving fund to be administered by the administration as provided in this chapter. Any and all funds derived from the sale, lease, operation, or other disposition of any property, real or personal, acquired by the United States on account of or as a result of any loan made pursuant to the provisions of this chapter, shall be covered into and become a part of said revolving fund. Effective June 25, 1962, the sum authorized to be appropriated for the aforesaid revolving fund as reduced from $500,000,000 to $150,000,000 and any amount in said fund in excess of $150,000,000 (including any amount thereof used to purchase capital stock in the central and regional banks for cooperatives) shall be credited to miscellaneous receipts of the Treasury.

(June 15, 1929, ch. 24, § 6, 46 Stat. 14; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title III, §§ 33, 34, title IV, §§ 40, 41, 48 Stat. 262, 264; Aug. 19, 1937, ch. 704, § 38, 50 Stat. 718; June 25, 1962, Pub. L. 87-494, 76 Stat. 109.)

CODIFICATION

Section was formerly classified to section 526 of Title 7, Agriculture.

AMENDMENTS

1962—Pub. L. 87-494 reduced the sum authorized to be appropriated to $150,000,000.

1937—Act Aug. 19, 1937, added the second sentence.

1933—Act June 16, 1933, affected the provision pertaining to administration of the fund.

CHANGE OF NAME

"Administration" was substituted for "board" pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Use of revolving fund in purchasing capital stock in regional and central banks for cooperatives, see section 2124 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1141b, 1141d-1 of this title.

§ 1141d-1. Interest rates on loans made from revolving fund

Interest rates in excess of the rates set forth in notes or other obligations taken by the Federal Farm Board or the Farm Credit Administration for loans made from the revolving fund authorized by section 1141d of this title shall not be charged or collected on any of said loans, whether such loans have been heretofore or are hereafter paid in whole or in part, except that in those cases where a borrower by specific contract has agreed to pay a higher rate of interest, the contract rate shall be charged for the period agreed upon; and the amount of any interest collected in excess of the rates thus set forth or contracted for shall be refunded out of said fund or credited on the borrower's indebtedness.

(June 22, 1939, ch. 239, 53 Stat. 853.)

CODIFICATION

Section is not a part of the Agricultural Marketing Act, which constitutes this chapter.

CHANGE OF NAME

The name of the Federal Farm Board was changed in 1933 to the Farm Credit Administration by Ex. Ord. No. 6084, set out preceding section 2241 of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

§ 1141e. Loans to cooperative associations

(a) Upon application by any cooperative association the administration is authorized to make loans to it from the revolving fund to assist in—

(1) the effective merchandising of agricultural commodities and food products thereof and the financing of its operations;

(2) the construction or acquisition by purchase or lease, or refinancing the cost of such construction or acquisition, of physical facilities.

(b) No loan shall be made to any cooperative association unless, in the judgment of the administration, the loan is in furtherance of the policy declared in section 1141 of this title, and the cooperative association applying for the loan has an organization and management, and business policies, of such character as to insure the reasonable safety of the loan and the furtherance of such policy.

(c) Loans for the construction or acquisition by purchase or lease of physical facilities, or for refinancing the cost of such construction or acquistion,[1] shall be subject to the following conditions:

(1) No loan shall be made in an amount in excess of 60 per centum of the appraised value of the security therefor.

(2) No loan for the purchase or lease of such facilities shall be made unless the Governor of the Farm Credit Administration finds that the purchase price or rent to be paid is reasonable.

(d) Loans for the construction or purchase of physical facilities, together with interest on the loans, shall be repaid upon an amortization plan over a period not in excess of twenty years.

(June 15, 1929, ch. 24, § 7, 46 Stat. 14; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title V, §§ 50–53, 48 Stat. 265; June 3, 1935, ch. 164, §§ 9, 10, 49 Stat. 316.)

CODIFICATION

Section was formerly classified to section 527 of Title 7, Agriculture.

[1] So in original. Probably should read "acquisition".

AMENDMENTS

1935—Subsecs. (a)(2) and (c)(1). Act June 3, 1935, amended subsecs. (a)(2) and (c)(1).

1933—Act June 16, 1933, repealed provisions authorizing loans to form clearing house associations; for education of producers in advantages of cooperative marketing; and to enable cooperatives to advance a greater share of the market price of commodities than was practicable under other credit facilities.

CHANGE OF NAME

"Administration" was substituted for "board" pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Loans to cooperative associations by banks for cooperatives, established under the Farm Credit Act of 1933, and capitalized from the revolving fund provided for in section 1141d of this title, see section 2122 of this title.

Revolving fund, see section 1141d of this title.

§ 1141f. Miscellaneous loan provisions

(a) Repealed. Pub. L. 89–525, § 4(b), Aug. 2, 1966, 80 Stat. 334.

(b) Payments of principal or interest upon any such loan or advance shall be covered into the revolving fund.

(c) Loans to any cooperative association or stabilization corporation shall be made upon the terms specified in this chapter and upon such other terms not inconsistent therewith and upon such security as the administration deems necessary.

(d) No loan or insurance agreement shall be made by the administration if in its judgment the agreement is likely to increase unduly the production of any agricultural commodity of which there is commonly produced a surplus in excess of the annual marketing requirements.

(June 15, 1929, ch. 24, § 8, 46 Stat. 14; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title V, § 54, 48 Stat. 266; June 3, 1935, ch. 164, § 11, 49 Stat. 316; Aug. 19, 1937, ch. 704, § 5(a), 50 Stat. 704; Aug. 11, 1955, ch. 785, title I, § 109, 69 Stat. 662; Aug. 2, 1966, Pub. L. 89–525, § 4(b), 80 Stat. 334.)

CODIFICATION

Section was formerly classified to section 528 of Title 7, Agriculture.

AMENDMENTS

1966—Subsec. (a). Pub. L. 89–525 repealed subsec. (a) which provided that loans to cooperative associations made by any bank for cooperatives shall bear such

rates of interest as the board of directors of the bank shall from time to time determine with the approval of the Farm Credit Administration, but in no case shall the rate of interest exceed 6 per centum per annum on the unpaid principal of a loan. See section 2122 of this title.

1955—Subsec. (a). Act Aug. 11, 1955, provided that boards of directors for banks would prescribe interest rates on loans in place of requirements relating interest rates on loans made by banks for cooperatives to interest rates charged by Federal intermediate credit banks and Federal land banks.

1937—Subsec. (a). Act Aug. 19, 1937, substituted "farm credit district" for "land bank district".

1935—Subsec. (a). Act June 3, 1935, among other changes, added proviso.

1933—Subsec. (a). Act June 16, 1933, among other changes, modified interest rates.

CHANGE OF NAME

"Administration" was substituted for "board" pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

EFFECTIVE DATE OF 1955 AMENDMENT

Amendment of subsec. (a) by act Aug. 11, 1955, effective on the first day of the month next following 120 days after Aug. 11, 1955.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2, of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Revolving fund, see section 1141d of this title.

§ 1141g. Omitted

CODIFICATION

Section, act June 15, 1929, ch. 24, § 9, 46 Stat. 15; Ex. Ord. No. 6084, Mar. 27, 1933, which provided for the recognition, upon application of the advisory commodity committee, of stabilization corporations for commodities, and prescribed functions and operations in connection therewith, has been omitted from the code as obsolete. Ex. Ord. No. 6084 abolished the authority conferred by this former section and ordered the Farm Credit Administration to take appropriate steps for winding up the activities of such corporations. The order is set out as a note preceding section 2241 of this title.

§ 1141h. Avoidance of duplication; cooperation with other governmental establishments; obtaining information and data; cooperation with States, Territories, and agencies or subdivisions thereof; indicating research problems; transfer of offices, functions, etc.

(a) The administration shall, in cooperation with any governmental establishment in the Executive branch of the Government, including any field service thereof at home or abroad, avail itself of the services and facilities thereof in order to avoid preventable expense or duplication of effort.

(b) The President may by Executive order direct any such governmental establishment to furnish the administration such information and data as such governmental establishment may have pertaining to the functions of the administration; except that the President shall not direct that the administration be furnished with any information or data supplied by any person in confidence to any governmental establishment in pursuance of any provision of law or of any agreement with a governmental establishment.

(c) The administration may cooperate with any State or Territory, or department, agency, or political subdivision thereof, or with any person.

(d) The administration shall, through the governor, indicate to the appropriate bureau or division of the Department of Agriculture any special problem on which a research is needed to aid in carrying out the provisions of this chapter.

(e) The President is authorized, by Executive order, to transfer to or retransfer from the jurisdiction and control of the administration the whole or any part of (1) any office, bureau, service, division, commission, or board in the Executive branch of the Government engaged in scientific or extension work, or the furnishing of services, with respect to the marketing of agricultural commodities, (2), its functions pertaining to such work or services, and (3) the records, property, including office equipment, personnel, and unexpended balances of appropriation, pertaining to such work or services.

(June 15, 1929, ch. 24, § 13, 46 Stat. 17; Ex. Ord. No. 6084, Mar. 27, 1933.)

CODIFICATION

Section was formerly classified to section 533 of Title 7, Agriculture.

CHANGE OF NAME

"Administration" was substituted for "board" pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

§ 1141i. Examination of books and accounts

Vouchers approved by the Governor of the Farm Credit Administration for expenditures from the revolving fund pursuant to any loan or advance or from insurance moneys pursuant to any insurance agreement, shall be final and conclusive upon all officers of the Government;

except that all financial transactions of the administration shall, subject to the above limitations, be examined by the General Accounting Office at such times and in such manner as the Comptroller General of the United States may by regulation prescribe.

(June 15, 1929, ch. 24, § 14, 46 Stat. 18; Ex. Ord. No. 6084, Mar. 27, 1933; Aug. 30, 1954, ch. 1076, § 1(30), 68 Stat. 968.)

CODIFICATION

Section was formerly classified to section 534 of Title 7, Agriculture.

AMENDMENTS

1954—Act Aug. 30, 1954, repealed former second sentence which required the Comptroller General to make reports to Congress on examinations of Farm Credit Administration transactions under the agricultural marketing revolving fund, in violation of law, together with his recommendations, such provisions now being covered by chapter 14 of Title 31, Money and Finance.

CHANGE OF NAME

"Governor of the Farm Credit Administration" and "administration" were substituted for "chairman of the board" and "board", respectively, pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

INSURANCE AGREEMENTS

Insurance agreements, referred to in the text, were authorized to be made by section 11 of act June 15, 1929, which section was repealed by act June 16, 1933, ch. 98, title V, § 50(a), 48 Stat. 265. Section 11 authorized the former Federal Farm Board, upon application of cooperative associations, to enter into agreements subject to specified conditions, for the insurance of the associations against loss through price decline in the agricultural commodity handled by the associations and produced by the members thereof.

§ 1141j. Miscellaneous provisions

(a) "Cooperative association" defined

As used in this chapter, the term "cooperative association" means any association in which farmers act together in processing, preparing for market, handling, and/or marketing the farm products of persons so engaged, and also means any association in which farmers act together in purchasing, testing, grading, processing, distributing, and/or furnishing farm supplies and/or farm business services: *Provided, however,* That such associations are operated for the mutual benefit of the members thereof as such producers or purchasers and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; and

Second. That the association does not pay dividends on stock or membership capital in excess of 8 per centum per annum.

And in any case to the following:

Third. That the association shall not deal in farm products, farm supplies, and farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members. All business transacted by any cooperative association for or on behalf of the United States or any agency or instrumentality thereof shall be disregarded in determining the volume of member and nonmember business transacted by such association.

(b) Speculation prohibited

It shall be unlawful for the governor, or any officer or employee of the Farm Credit Administration to speculate directly or indirectly, in any agricultural commodity or product thereof, or in contracts relating thereto, or in the stock or membership interests of any association or corporation engaged in handling, processing, or disposing of any such commodity or product. Any person violating this subdivision shall upon conviction thereof be fined not more than $10,000, or imprisoned not more than ten years, or both.

(c) Confidential information; disclosure prohibited

It shall be unlawful (1) for any cooperative association, stabilization corporation, clearinghouse association, or commodity committee, or (2) for any director, officer, employee, or member or person acting on behalf of any such association, corporation, or committee, to which or to whom information has been imparted in confidence by the administration, to disclose such information in violation of any regulation of the administration. Any such association, corporation, or committee, or director, officer, employee, or member thereof, violating this subdivision, shall be fined not more than $5,000, or imprisoned not more than five years, or both.

(d) Governmental publications; predictions as to cotton prices prohibited

The inclusion in any governmental report, bulletin, or other such publication hereafter issued or published of any prediction with respect to cotton prices is prohibited. Any officer or employee of the United States who authorizes or is responsible for the inclusion in any such report, bulletin, or other publication of any such prediction, or who knowingly causes the issuance or publication of any such report, bulletin, or other publication containing any such prediction, shall, upon conviction thereof, be fined not less than $500 or more than $5,000, or imprisoned for not more than five years, or both: *Provided,* That this subdivision shall not apply to the Governor of the Farm Credit Administration when engaged in the performance of his duties herein provided.

(e) Separability clause

If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person, circumstance, commodity, or class

of transactions with respect to any commodity is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons, circumstances, commodities, and classes of transactions shall not be affected thereby.

(f) Citation of chapter

This chapter may be cited as the "Agricultural Marketing Act."

(g) "Agricultural commodity"; definition

As used in this chapter, the term "agricultural commodity" includes, in addition to other agricultural commodities, crude gum (oleoresin) from a living tree, and the following products as processed by the original producer of the crude gum (oleoresin) from which derived: Gum spirits of turpentine, and gum rosin, as defined in section 92 of title 7.

(June 15, 1929, ch. 24, § 15, 46 Stat. 18; Mar. 4, 1931, ch. 520, § 3, 46 Stat. 1550; Ex. Ord. No. 6084, Mar. 27, 1933; June 16, 1933, ch. 98, title V, § 55, 48 Stat. 266; June 3, 1935, ch. 164, § 12, 49 Stat. 317.)

CODIFICATION

Section was formerly classified to section 535 of Title 7, Agriculture.

AMENDMENTS

1935—Subsec. (a). Act June 3, 1935, amended definition of cooperative association and added second sentence in par. "Third".

1933—Subsec. (a). Act June 16, 1933, among other changes, added proviso and all subsequent thereto.

1931—Subsec. (g). Act Mar. 4, 1931, added subsec. (g).

CHANGE OF NAME

"The Governor" and "Farm Credit Administration" were substituted for "any member" and "board", respectively, and "Governor of the Farm Credit Administration" was substituted for "members of the board", pursuant to Ex. Ord. No. 6084, set out preceding section 2241 of this title.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Agricultural Fair Practices Act of 1967, association of producers as meaning cooperative association defined in this section, see section 2302 of Title 7, Agriculture.

Felony as offense punishable by imprisonment for term exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2302; title 26 section 3121; title 29 section 203; title 42 section 410.

CHAPTER 7B—REGIONAL AGRICULTURAL CREDIT CORPORATIONS

Sec.

1148. Regional agricultural credit corporations; creation; capital; management; loans; rediscounts; supervision
1148a to 1148a-3. Repealed.
1148a-4. Security for economic disaster and special livestock loans.
1148b. Additional powers of regional agricultural credit corporations.
(a) Places of transacting business.
(b) Borrow money.
(c) Loans.
(d) Sale to or purchase from other like corporations.
1148c. Consolidation or merger.
(a) Power of Farm Credit Administration.
(b) Status of corporations formed by consolidation.
1148d. Rights and powers unaffected by sections 1148b and 1148c.

§ 1148. Regional agricultural credit corporations; creation; capital; management; loans; rediscounts; supervision

The Farm Credit Administration is authorized to create in any of the twelve farm credit districts where it may deem the same to be desirable a regional agricultural credit corporation with a paid-up capital of not less than $3,000,000, to be subscribed for by the Farm Credit Administration and paid for out of the unexpended balance of the amounts allocated and made available to the Secretary of Agriculture under section 2 of the Reconstruction Finance Corporation Act. Such corporations shall be managed by officers and agents to be appointed by the Farm Credit Administration under such rules and regulations as it may prescribe. Such corporations are authorized and empowered to make loans or advances to farmers and stockmen, the proceeds of which are to be used for an agricultural purpose (including crop production), or for the raising, breeding, fattening, or marketing of livestock, to charge such rates of interest or discount thereon as in their judgment are fair and equitable, subject to the approval of the Farm Credit Administration, and to rediscount with the Farm Credit Administration and the various Federal reserve banks and Federal intermediate credit banks any paper that they acquire which is eligible for such purpose. All expenses incurred in connection with the operation of such corporations shall be supervised and paid by the Farm Credit Administration under such rules and regulations as its board of directors may prescribe.

(July 21, 1932, ch. 520, § 201(e), 47 Stat. 713; Aug. 19, 1937, ch. 704, § 5(a), 50 Stat. 704; June 30, 1947, ch. 166, title II, § 206, 61 Stat. 208.)

REFERENCES IN TEXT

Section 2 of the Reconstruction Finance Corporation Act, referred to in the text, refers to section 2 of the act of Jan. 22, 1932, ch. 8, 47 Stat. 5, wherein the sum of $50,000,000 was made available to the Secre-

tary of Agriculture for the purpose of making certain emergency crop loans or advances to farmers. Act June 30, 1947, ch. 166, title I, § 1, 61 Stat. 202 further amended section 2, as amended, of the Reconstruction Finance Corporation Act by eliminating provisions relating to the Secretary of Agriculture and the emergency crop loans or advances.

AMENDMENTS

1947—Act June 30, 1947, substituted "Farm Credit Administration" for "Reconstruction Finance Corporation" wherever appearing.

CHANGE OF NAME

Act Aug. 19, 1937, substituted "farm credit districts" for "Federal land-bank districts".

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

Ex. Ord. No. 6084 of Mar. 27, 1933, set out preceding section 2241 of this title, transferred to the jurisdiction and control of the Farm Credit Administration the functions defined in section 5(e) of the Order, as follows: "The functions of the Reconstruction Finance Corporation and its Board of Directors relating to the appointment of officers and agents to manage regional agricultural credit corporations formed under section 201(e) of the Emergency Relief and Construction Act of 1932 (this section); relating to the establishment of rules and regulations for such management; and relating to the approval of loans and advances made by such corporations and of the terms and conditions thereof."

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Financial control of corporation, see section 841 et seq. of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1148b of this title.

§ 1148a. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, acts June 16, 1933, ch. 98, title VIII, § 84, 48 Stat. 273; June 30, 1947, ch. 166, title II, § 206, 61 Stat. 208, provided for the reduction of capital of regional agricultural credit corporations by the Farm Credit Administration and is now covered by section 2252 of this title.

§§ 1148a-1 to 1148a-3. Repealed. Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318

Section 1148a-1, acts Apr. 6, 1949, ch. 49, § 1, 63 Stat. 43; Aug. 5, 1950, ch. 592, § 1(a), 64 Stat. 414, provided for transfer of functions of Regional Agricultural Credit Corporation, Washington, D.C., to Secretary of Agriculture to make disaster loans, abolished such corporation, provided for transfer of assets, funds, rights, liabilities, use of revolving, transfer of personnel and delegation of authority by Secretary of Agriculture.

Section 1148a-2, acts Apr. 6, 1949, ch. 49, § 2, 63 Stat. 44; July 14, 1953, ch. 192, § 1, 67 Stat. 149; July 7, 1955, ch. 278, §§ 1, 2, 69 Stat. 263; July 15, 1955, ch. 373, 69 Stat. 366; July 11, 1958, Pub. L. 85-516, 72 Stat. 357; July 26, 1961, Pub. L. 87-106, 75 Stat. 220, authorized the Secretary of Agriculture to make loans to farmers and stockmen, prescribed the rates of interest and terms and conditions of the loans, provided for economic disaster loans and rates of interest and terms thereof, special livestock loans, the effective period of such loans, security, rate of interest, terms and conditions of such loans and local loan committees, emergency assistance in furnishing feed and seed, utilization of Agriculture Department agencies, utilization of revolving fund and transfer of funds into the revolving fund.

Section 1148a-3, act Apr. 6, 1949, ch. 49, § 3(a), 63 Stat. 44, provided that no suit or other judicial proceeding instituted by or against the Regional Agricultural Credit Corporation shall abate by reason of sections 1148a-1 and 1148a-2 of this title and permitted substitution of the Secretary as a party in place of the Corporation within six months after Apr. 16, 1949.

The subject matter of former sections 1148a-1 to 1148a-3 of this title is now covered by section 1921 et seq. of Title 7, Agriculture.

EFFECTIVE DATE OF REPEAL

Repeal of sections effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of chapter 50 of Title 7, Agriculture, are made effective by regulations of Secretary of Agriculture, except that repeal of section 1148a-2(c) of this title shall not be effective prior to Jan. 1, 1962, see section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of Title 7, Agriculture.

Sections repealed effective Oct. 15, 1961, by former section 300.1 of Title 6, Code of Federal Regulations, see Effective Date note under section 1921 of Title 7, Agriculture.

CREDIT EMERGENCY LOANS: TERMINATION DATE

Act Aug. 31, 1954, ch. 1145, 68 Stat. 999, as amended by acts June 30, 1955, ch. 249, 69 Stat. 223; July 7, 1955, ch. 278, § 3, 69 Stat. 263; Aug. 1, 1956, ch. 829, § 4, 70 Stat. 804, which authorized the Secretary of Agriculture to make emergency loans for any agricultural purpose until June 30, 1957, described persons eligible for such loans and provided for utilization of a revolving fund of the Farm Credit Administration for loans and administrative expenses and additions to such fund from liquidation of loans, was repealed effective one hundred and twenty days after Aug. 8, 1961, or such earlier date as the provisions of chapter 50 of Title 7, Agriculture, are made effective by regulations of Secretary of Agriculture by provisions of section 341(a) of Pub. L. 87-128, set out as a note under section 1921 of Title 7, Agriculture, and is now covered by section 1961 et seq. of Title 7, Agriculture.

§ 1148a-4. Security for economic disaster and special livestock loans

Loans under section 1148a-2(b) and (c) of this title shall be secured by the personal obligation and available security of the producer or producers, and in the case of loans to corporations or other business organizations, by the personal obligation and available security of each person holding as much as 10 per centum of the stock or other interest in the corporation or organization.

(July 14, 1953, ch. 192, § 2, 67 Stat. 150.)

REFERENCES IN TEXT

Section 1148a-2(b) and (c) of this title, referred to in text, was repealed by Pub. L. 87-128, title III, § 341(a), Aug. 8, 1961, 75 Stat. 318.

§ 1148b. Additional powers of regional agricultural credit corporations

Each regional agricultural credit corporation, created under the authority of section 1148 of this title, in addition to the powers granted prior to August 19, 1937, shall have and, upon order or approval of the Farm Credit Administration, shall exercise the following rights, powers, and authority:

(a) Places of transacting business

To conduct, transact, and operate its business in any State in the continental United States, in the District of Columbia, and in Puerto Rico.

(b) Borrow money

To borrow money (other than by way of discount) from any other regional agricultural credit corporation, or any Federal intermediate credit bank, and to give security therefor.

(c) Loans

To lend any of its available funds to any other regional agricultural credit corporation at such rates of interest and upon such terms and conditions as may be approved by the Farm Credit Administration.

(d) Sale to or purchase from other like corporations

To sell to or purchase from any other regional agricultural credit corporation or any corporation formed by consolidation or merger as provided in section 1148c of this title, any part of or all the assets of any such corporation, upon such terms and conditions as may be approved by the Farm Credit Administration, including the assumption of the liabilities of any such corporation, in whole or in part.

(Aug. 19, 1937, ch. 704, § 32, 50 Stat. 716; June 30, 1947, ch. 166, title II, § 206(s), 61 Stat. 209.)

AMENDMENTS

1947—Subsec. (b). Act June 30, 1947, struck out "Reconstruction Finance Corporation" following "credit corporation".

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1148d of this title.

§ 1148c. Consolidation or merger

(a) Power of Farm Credit Administration

The Farm Credit Administration shall have the power and authority to order and effect the consolidation or merger of two or more regional agricultural credit corporations, on such terms and conditions as it shall direct.

(b) Status of corporations formed by consolidation

The Farm Credit Administration is authorized to grant charters to, prescribe bylaws for, and fix the capital of, regional agricultural credit corporations which may be formed by the consolidation of two or more regional agricultural credit corporations, and to approve or prescribe such amendments to the charter and bylaws of any regional agricultural credit corporation as it may from time to time deem necessary.

(Aug. 19, 1937, ch. 704, § 33, 50 Stat. 717; June 30, 1947, ch. 166, title II, § 206(s), 61 Stat. 209.)

AMENDMENTS

1947—Subsec. (b). Act June 30, 1947, repealed provisions relating to the payment of the expenses of corporations formed by the consolidation of two or more regional agricultural credit corporations.

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1148b, 1148d of this title.

§ 1148d. Rights and powers unaffected by sections 1148b and 1148c

Nothing contained in sections 1148b and 1148c of this title shall be construed as limiting the rights, powers, and authority granted prior to August 19, 1937, to the regional agricultural credit corporations, the Farm Credit Administration, or the Governor thereof by any Acts of Congress or Executive orders.

(Aug. 19, 1937, ch. 704, § 34, 50 Stat. 717.)

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

CHAPTER 8—ADJUSTMENT AND CANCELLATION OF FARM LOANS

Sec.
1150. Compromise, adjustment, and cancellation of farm loans; conditions; delegation of powers and duties by Secretary of Agriculture.
1150a. Farm loans to which chapter is applicable.
1150b. Authorization of appropriations.
1150c. Repealed.

CODIFICATION

Former chapter 8 of this title, relating to federal intermediate credit banks, is now covered by section 2071 et seq. of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 1480.

§ 1150. Compromise, adjustment, and cancellation of farm loans; conditions; delegation of powers and duties by Secretary of Agriculture

The Secretary of Agriculture, hereinafter referred to as the Secretary, is authorized and directed to compromise, adjust, or cancel indebtedness arising from loans and payments made or credit extended to farmers under the provisions of the several Acts of Congress or programs enumerated in section 1150a of this title: *Provided*, That the Secretary finds, after such investigation as he deems sufficient to establish the facts, that (1) said indebtedness has been due and payable for five years or more; (2) the debtor is unable to pay said indebtedness in full and has no reasonable prospect of being able to do so; (3) the debtor has acted in good faith in an effort to meet his obligation; and (4) the principal amount of said indebtedness is not in excess of $1,000. The Secretary is further authorized at his discretion to cancel and discharge indebtedness arising under said Acts of Congress or programs when the amount of said indebtedness is less than $10, or the debtor is deceased and there is no reasonable prospect of recovering from his estate, or his whereabouts has remained unknown for two years and there is no reasonable prospect of obtaining collection, or he has been discharged of the indebtedness in any proceeding under the Act entitled "An Act to establish a uniform system of bankruptcy throughout the United States" [11 U.S.C. 1 et seq.]. The compromises, adjustments, or cancelations authorized by this section shall be effected through such agencies, upon such terms and conditions, and subject to such regulations, as the Secretary may prescribe, and the Secretary may delegate the exercise of any such powers and functions to such officers or employees of the Department of Agriculture as he may designate.

(Dec. 20, 1944, ch. 623, § 1, 58 Stat. 836.)

REFERENCES IN TEXT

Words "An Act to establish a uniform system of bankruptcy throughout the United States" refer to section 1 et seq. of Title 11, Bankruptcy.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies, and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

CROSS REFERENCES

Indebtedness arising from farm housing loans and payments, power and authority of Secretary under this chapter as applicable to, see section 1480 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 sections 217, 1026.

§ 1150a. Farm loans to which chapter is applicable

The provisions of this chapter shall apply to any indebtedness of farmers arising from loans or payments made or credit extended to them under any of the following Acts or programs: (a) July 1, 1918 (40 Stat. 635); March 3, 1921 (41 Stat. 1347); March 20, 1922 (42 Stat. 467); April 26, 1924 (43 Stat. 110); February 25, 1927 (44 Stat. 1245); February 28, 1927 (44 Stat., part II, 1251); February 25, 1929 (45 Stat. 1306), as amended May 17, 1929 (46 Stat. 3); March 3, 1930 (46 Stat. 78-79), as amended April 24, 1930 (46 Stat. 254); December 20, 1930 (46 Stat. 1032), as amended February 14, 1931 (46 Stat. 1160); February 23, 1931 (46 Stat. 1276); January 22, 1932 (47 Stat. 5); March 3, 1932 (47 Stat. 60); February 4, 1933 (47 Stat. 795); February 23, 1934 (48 Stat. 354); June 19, 1934 (48 Stat. 1056); February 20, 1935 (49 Stat. 28); March 21, 1935 (49 Stat. 50); April 8, 1935 (49 Stat. 115); (Executive Order Numbered 7305); January 29, 1937 (50 Stat. 5); and February 4, 1938 (52 Stat. 27); (b) Agricultural Adjustment Act (of 1933); Bankhead Cotton Act of April 21, 1934, on account of the several cotton tax-exemption certificate pools; Jones-Connally Cattle Act of April 7, 1934; Emergency Appropriation Act, fiscal year 1935, approved June 19, 1934; Kerr Tobacco Act of June 28, 1934, and Public Resolution Numbered 76, approved March 14, 1936; section 32 of the Act of August 24, 1935, and related legislation; Supplemental Appropriation Act, fiscal year 1936; sections 7 to 17 of the Soil Conservation and Domestic Allotment Act; Sugar Act of 1937; sections 303 and 381(a) of the Agricultural Adjustment Act of 1938 and related or subsequent legislation authorizing parity or price adjustment payments; title IV and title V of the Agricultural Adjustment Act of 1938 and related legislation; any amendment to any of the foregoing Acts heretofore and any other Act of Congress heretofore enacted authorizing payments to farmers under programs administered through the Agricultural Adjustment Agency; (c) Loans made by or through the Resettlement Administration of the Farm Security Administration out of funds appropriated or made available by or pursuant to the following Acts; April 8, 1935 (49 Stat. 115); June 22, 1936 (49 Stat. 1608); February 9,

1937 (50 Stat. 8); June 29, 1937 (50 Stat. 352); The Bankhead-Jones Farm Tenant Act, July 22, 1937 (50 Stat. 522 et seq.); the Water Facilities Act of August 28, 1937 (50 Stat. 869 et seq.); March 2, 1938 (52 Stat. 83, Public Resolution Numbered 80); June 21, 1938 (52 Stat. 809); June 30, 1939 (53 Stat. 927); June 26, 1940 (Public Resolution Numbered 88); flood-restoration loans, Second Deficiency Appropriation Act, 1943 (57 Stat. 537, 542); and subsequent legislation appropriating or making available funds for such loans; commodity loan, purchase, sale, and other programs of the Commodity Credit Corporation; and crop-insurance programs formulated pursuant to title V of the Agricultural Adjustment Act of 1938 (the Federal Crop Insurance Act), and any amendment or supplement thereto heretofore or hereafter enacted. This chapter shall also apply to any indebtedness of farmers evidenced by notes or accounts receivable, title to which has been acquired in the liquidation of loans to cooperative associations made under the provisions of the Act of June 15, 1929 (46 Stat. 11).

(Dec. 20, 1944, ch. 623, § 2, 58 Stat. 836.)

REFERENCES IN TEXT

The Act of January 22, 1932 (47 Stat. 5), referred to in text, is act Jan. 22, 1932, ch. 8, 47 Stat. 5, known as the Reconstruction Finance Corporation Act, which was formerly classified to chapter 14 (§ 601 et seq.) of Title 15, Commerce and Trade, and which has now been eliminated from the Code. For complete classification of this Act prior to its elimination from the Code, see Tables volume.

The Act of March 3, 1932 (47 Stat. 60), referred to in text, is act Mar. 3, 1932, ch. 70, 47 Stat. 60, which is classified generally to chapter 10 (§ 1401 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

The Act of April 8, 1935 (49 Stat. 115), and (Executive Order Numbered 7305), referred to in text, mean act Apr. 8, 1935, ch. 48, 49 Stat. 115, and Ex. Ord. No. 7305, Feb. 28, 1936, respectively, which were formerly classified to Chapter 16 (§ 721 et seq.) of Title 15, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have now been eliminated from the Code.

The Act of June 19, 1934 (48 Stat. 1056), referred to in text, probably means act June 19, 1934, ch. 648, title II, § 1, 48 Stat. 1056, provisions of which were classified to section 59 of Title 49, Transportation. Such provisions have now been eliminated from the Code. For complete classification of this Act to the Code, see Tables volume.

The Act of January 29, 1937 (50 Stat. 5), referred to in text, is act Jan. 29, 1937, ch. 7, 50 Stat. 5, which was formerly classified to subchapter II-B (§ 1020i et seq.) of chapter 7 of this title, and which was repealed by act Aug. 14, 1946, ch. 964, § 2(a)(2), 60 Stat. 1062.

The Agricultural Adjustment Act (of 1933), referred to in text, probably means title I of act May 12, 1933, ch. 25, 48 Stat. 31, known as the Agricultural Adjustment Act, which is classified generally to chapter 26 (§ 601 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 601 of Title 7 and Tables volume.

The Bankhead Cotton Act of April 21, 1934, referred to in text, is act Apr. 21, 1934, ch. 157, 48 Stat. 598, which is classified generally to chapter 27 (§ 701 et seq.) of Title 7. The Bankhead Cotton Act was substantially repealed by act Feb. 10, 1936, ch. 42, 49 Stat. 1106. For complete classification of this Act to the Code, see Tables volume.

The Jones-Connally Cattle Act of April 7, 1934, referred to in text, is act Apr. 7, 1934, ch. 103, 48 Stat. 528, which is classified to sections 608, 608b, 609, 611, 612, and 612a of Title 7. For complete classification of this Act to the Code, see Tables volume.

Emergency Appropriation Act, fiscal year 1935, approved June 19, 1934, referred to in text, is act June 19, 1934, ch. 648, title II, 48 Stat. 1055, relevant provisions of which were classified to sections 604 and 605 of Title 7, and section 59 of Title 49. Section 605 of Title 7 was repealed by act June 30, 1947, ch. 166, title II, § 206(d), 61 Stat. 208, and section 59 of Title 49 has now been eliminated from the Code. For complete classification of this Act to the Code, see Tables volume.

The Kerr Tobacco Act of June 28, 1934, is act June 28, 1934, ch. 866, §§ 1 to 16, 48 Stat. 1275, which was formerly classified to chapter 28 (§ 751 et seq.) of Title 7, and which was repealed by act Feb. 10, 1936, ch. 42, 49 Stat. 1106.

Section 32 of the Act of August 24, 1935, referred to in text, is classified to section 612c of Title 7.

Supplemental Appropriation Act, fiscal year 1936, referred to in text, is act Feb. 11, 1936, ch. 49, 49 Stat. 1134, provisions of which were formerly classified to chapter 16 (§ 721 et seq.) of Title 15, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have now been eliminated from the Code. For complete classification of this Act to the Code, see Tables volume.

Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, referred to in text, are classified to sections 590g, 590h, 590i, and 590j to 590q of Title 16, Conservation.

The Sugar Act of 1937, referred to in text, is act Sept. 1, 1937, ch. 898, 50 Stat. 903, which was formerly classified to chapter 34 (§ 1100 et seq.) of Title 7. The Sugar Act of 1937 expired on Dec. 31, 1947, and was superseded by the Sugar Act of 1948, which in turn expired on Dec. 31, 1974, and which has now been eliminated from the Code. For complete classification of the Sugar Act of 1937 to the Code prior to its expiration, see Tables volume.

Sections 303 and 381(a) of the Agricultural Adjustment Act of 1938, referred to in text, are classified to sections 1303 and 1381(a), respectively, of Title 7. Section 1381 of Title 7, was omitted from the Code as obsolete.

The Agricultural Adjustment Act of 1938, referred to in text, is act Feb. 16, 1938, ch. 30, 52 Stat. 31. Title IV of the Act was formerly classified to subchapter III (§ 1401 et seq.) of chapter 35 of Title 7, and has now been eliminated from the Code. Title V of the Act, known as the Federal Crop Insurance Act, is classifed generally to chapter 36 (§ 1501 et seq.) of Title 7. For complete classification of these Acts to the Code, see sections 1281 and 1501 of Title 7 and Tables volume.

The Act of June 22, 1936 (49 Stat. 1608), referred to in text, probably means act June 22, 1936, ch. 689, title II, 49 Stat. 1608, provisions of which were formerly classified to chapter 16 (§ 721 et seq.) of Title 15, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have now been eliminated from the Code.

The Act of June 29, 1937 (50 Stat. 352), referred to in text, probably means act June 29, 1937, ch. 401, 50 Stat. 357, provisions of which were formerly classified to chapter 16 (§ 721 et seq.) of Title 15, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have now been eliminated from the Code. For complete classification of this Act to the Code, see Tables volume.

The Bankhead-Jones Farm Tenant Act, referred to in text, is act July 22, 1937, ch. 517, 50 Stat. 522, which is classified generally to chapter 33 (§ 1000 et seq.) of Title 7. For complete classification of this Act to the Code, see section 1000 of Title 7 and Tables volume.

The Water Facilities Act of August 28, 1937 (50 Stat. 869 et seq.), referred to in text, is act Aug. 28, 1937, ch. 870, 50 Stat. 869, which was formerly classified to sections 590r to 590x-4 of Title 16. The Act was repealed by section 341(a) of Pub. L. 87-128, title III, Aug. 8, 1961, 75 Stat. 318, and is now covered by chapter 50 (§ 1921 et seq.) of Title 7.

The Acts of March 2, 1938 (52 Stat. 83, Public Resolution Numbered 80), June 21, 1938 (52 Stat. 809), and June 30, 1939 (53 Stat. 927), referred to in text, are acts Mar. 2, 1938, ch. 38, 52 Stat. 83, June 21, 1938, ch. 554, 52 Stat. 809, and June 30, 1939, ch. 252, 53 Stat. 927, respectively, which were formerly classified to chapter 16 (§ 721 et seq.) of Title 15, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have now been eliminated from the Code.

The Act of June 26, 1940 (Public Resolution Numbered 88), referred to in text, is act June 26, 1940, ch. 432, 54 Stat. 611, provisions of which were formerly classified to section 609i of Title 15, and also to chapter 16 (§ 721 et seq.) of Title 15, as legislation supplementary to the Federal Emergency Relief Act of 1933. Such provisions have now been eliminated from the Code. For complete classification of this Act to the Code, see Tables volume.

The Act of June 15, 1929 (46 Stat. 11), referred to in text, is act June 15, 1929, ch. 24, 46 Stat. 11, known as the Agricultural Marketing Act, which is classified generally to chapter 7A (§ 1141 et seq.) of this title. For complete classification of this Act to the Code, see section 1141(j) of this title and Tables volume.

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by Reorg. Plan No. 2, of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

Functions of Agricultural Adjustment Agency and administration of programs of Commodity Credit Corporation and Federal Crop Insurance Corporation were transferred to the Secretary of Agriculture by Reorg. Plan No. 3 of 1946, § 501, eff. July 16, 1946, 11 F.R. 7877, 60 Stat. 1100, set out in the Appendix to Title 5, Government Organization and Employees. See, also, notes under sections 610 and 1503 of Title 7, Agriculture.

Farm Security Administration abolished, see note under former sections 1001 to 1005d of Title 7, Agriculture.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 sections 217, 1026.

§ 1150b. Authorization of appropriations

There is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amount as may be necessary to enable the Secretary to carry out the provisions of this chapter, and the current and subsequent appropriations to enable the Secretary to administer the respective Acts of Congress or programs to which the aforesaid payments or loans or extensions of credit relate shall also be available for the administrative expenses of carrying out this chapter.

(Dec. 20, 1944, ch. 623, § 3, 58 Stat. 837.)

TRANSFER OF FUNCTIONS

All functions of all officers, agencies and employees of the Department of Agriculture were transferred, with certain exceptions, to the Secretary of Agriculture by Reorg. Plan. No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of such corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the said Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, effective June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 sections 217, 1026.

§ 1150c. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act Dec. 20, 1944, ch. 623, § 4, 58 Stat. 837, related to false representation, acceptance of fees, etc., and is covered by sections 217 and 1026 of Title 18, Crimes and Criminal Procedure.

CHAPTER 9—NATIONAL AGRICULTURAL CREDIT CORPORATIONS

FORMATION

§ 1151. Repealed. Pub. L. 86-230, § 24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, § 201, 42 Stat. 1461, related to purpose, incorporators, articles of association and signing and filing thereof.

§ 1151a. Repealed. Pub. L. 92-181, title V, § 5.26(a), Dec. 10, 1971, 85 Stat. 624

Section, act June 16, 1933, ch. 98, title VII, § 77, 48 Stat. 272, prohibited the formation of agricultural credit corporations after June 16, 1933.

REQUISITES OF ARTICLES AND CERTIFICATE

§§ 1161 to 1163. Repealed. Pub. L. 86-230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 202(a) to (c), 42 Stat. 1461, related to organization certificate and contents, name of corporation, and acknowledgment of organization certificate and articles of association, respectively.

CORPORATE POWERS

§§ 1171, 1172. Repealed. Pub. L. 86-230, § 24, Sept. 8, 1959, 73 Stat. 466

Section 1171, act Mar. 4, 1923, ch. 252, title II, § 202(d), 42 Stat. 1462, related to corporate powers in general, directors and officers.

Section 1172, acts Mar. 4, 1923, ch. 252, title II, § 203(a), 42 Stat. 1462; Feb. 8, 1927, ch. 74, 44 Stat. 1059, related to additional powers under regulation of Comptroller.

DEBENTURES AND OTHER OBLIGATIONS; LIABILITY; SECURITY

§§ 1181, 1182. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 203(b), (c), 42 Stat. 1464, related to liability of United States for debentures and other obligations issued by credit corporations and additional real-estate security for obligations, respectively.

LIMITATIONS

§ 1191. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, § 204, 42 Stat. 1464, related to restrictions on amount of indebtedness and on advances, etc., to single persons and on dealings in livestock.

INTEREST RATES

§§ 1201, 1202. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 205(a), (b), 42 Stat. 1464, related to charges on loans and discounts and exacting unlawful interest, respectively.

CAPITAL STOCK

§§ 1211 to 1215. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 206(a) to (e), 42 Stat. 1464, related to amount of capital stock and payment as condition to grant of certificate to do business, increase or reduction of capital stock and withdrawal of paid-in capital, transfer of shares, collection of unpaid subscriptions, and shareholders voting by proxy, respectively.

REDISCOUNT CORPORATIONS

§§ 1221 to 1223. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 207(a) to (c), 42 Stat. 1465, related to rediscount powers, limitation upon indebtedness and deposit of bonds or securities, respectively.

PERMIT TO BEGIN BUSINESS

§§ 1231, 1232. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 208(a), (b), 42 Stat. 1466, related to deposit of bonds or obligations of United States as condition to issue of permit and determination as to grant of permit, respectively.

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

§§ 1241 to 1244. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 209(a), (b) (pt.), (c), (d), 42 Stat. 1467, related to supervision by Comptroller of Currency, assessment of credit corporations to pay administrative expenses, appointment and compensation of examiners of National Agricultural Credit Corporations and laws applicable, and expenses of examinations, respectively.

§ 1245. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act Mar. 4, 1923, ch. 252, title II, § 209(e), 42 Stat. 1468, related to loans and gratuities to examiners and is covered by sections 212 and 213 of Title 18, Crimes and Criminal Procedure.

§§ 1246, 1247. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 209(f), (g), 42 Stat. 1468, related to reports to Comptroller of Currency and licenses to act as inspectors of livestock as basis for loans, suspension or revocation of licenses and false representations as to holding of license, respectively.

§ 1248. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act Mar. 4, 1923, ch. 252, title II, § 209(h), 42 Stat. 1468, related to false statements in inspection reports and is covered by section 1014 of Title 18, Crimes and Criminal Procedure.

§ 1249. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, § 209(i), 42 Stat. 1468, related to allotment to Department of Agriculture of amount necessary for administration of functions vested therein.

BANKS OF FEDERAL RESERVE SYSTEM AS STOCKHOLDERS

§ 1251. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, § 210, 42 Stat. 1469, related to right to file application for stock and discretion of Comptroller of Currency.

TAXATION

§ 1261. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, § 211, 42 Stat. 1469, related to scope of authority of State to tax.

DEPOSITS

§ 1271. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, § 212, 42 Stat. 1469, related to deposits in Federal reserve member banks.

CONVERSION OF CORPORATIONS

§§ 1281 to 1283. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 213(a) to (c), 42 Stat. 1469, related to conversion of State agricultural or livestock financing corporations into National Agricultural Credit Corporations, articles of association and organization certificate, and powers, duties, and liabilities of converted corporation, respectively.

CONSOLIDATION OF CORPORATIONS

§§ 1291 to 1293. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 214(a) to (c), 42 Stat. 1470, related to procedure for consolidation and capital stock, dissenting stockholders, and effect of consolidation, respectively.

INSOLVENCY, RECEIVERSHIP, AND LIQUIDATION

§§ 1301 to 1303. Repealed. Pub. L. 86–230, § 24, Sept. 8, 1959, 73 Stat. 466

Sections, act Mar. 4, 1923, ch. 252, title II, § 215(a) to (c), 42 Stat. 1471, related to appointment and powers

of receiver, appointment and powers of shareholders' agents, and voluntary liquidation, respectively.

PENALTY PROVISIONS

§§ 1311 to 1318. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section 1311, act Mar. 4, 1923, ch. 252, title II, § 216 (a), 42 Stat. 1471, related to various criminal acts of officers, employees, or agents and is covered by section 709 of Title 18, Crimes and Criminal Procedure.

Section 1312, act Mar. 4, 1923, ch. 252, title II, § 216 (b), 42 Stat. 1472, related to false statements and is covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 1313, act Mar. 4, 1923, ch. 252, title II, § 216 (c), 42 Stat. 1472, related to overvaluation of property offered as security and is covered by section 1014 of Title 18, Crimes and Criminal Procedure.

Section 1314, act Mar. 4, 1923, ch. 252, title II, § 216 (d), 42 Stat. 1472, related to offenses by examiners and is covered by sections 213, 1908, and 1909 of Title 18, Crimes and Criminal Procedure.

Section 1315, act Mar. 4, 1923, ch. 252, title II, § 216 (e), 42 Stat. 1472, related to acceptance of gifts by officers and is covered by section 215 of Title 18, Crimes and Criminal Procedure.

Section 1316, act Mar. 4, 1923, ch. 252, title II, § 216 (f), 42 Stat. 1473, related to forgery, etc., and is covered by section 493 of Title 18, Crimes and Criminal Procedure.

Section 1317, act Mar. 4, 1923, ch. 252, title II, § 216 (g), 42 Stat. 1473, related to false representations as to debentures and is covered by section 1013 of Title 18, Crimes and Criminal Procedure.

Section 1318, act Mar. 4, 1923, ch. 252, title II, § 216 (h), 42 Stat. 1473, related to unlawful use of words "National Agricultural Credit Corporation" and is covered by section 709 of Title 18, Crimes and Criminal Procedure.

PARTIAL INVALIDITY; AMENDMENTS AND REPEALS

§ 1321. Omitted

CODIFICATION

Section, act Mar. 4, 1923, ch. 252, title V, § 507, 42 Stat. 1482, related to partial invalidity of chapter.

§ 1322. Repealed. Pub. L. 86-230, § 24, Sept. 8, 1959, 73 Stat. 466

Section, act Mar. 4, 1923, ch. 252, title II, § 217, 42 Stat. 1473, related to amendment or repeal of chapter.

CHAPTER 10—LOCAL AGRICULTURAL-CREDIT CORPORATIONS, LIVESTOCK-LOAN COMPANIES AND LIKE ORGANIZATIONS; LOANS TO INDIVIDUALS TO AID IN FORMATION OR TO INCREASE CAPITAL STOCK

Sec.

1401. Authorization of loans by Governor of Farm Credit Administration; regulations.
1402. Limitations on loans; financial structure of corporation, approval.
(a) Limitation on loans to individual stockholders.
(b) Approval of financial structure of corporation by Governor of Farm Credit Administration.
1403. Minimum paid-in capital stock required to warrant loans.
1404. Authorization of appropriations; revolving fund.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1150a of this title.

§ 1401. Authorization of loans by Governor of Farm Credit Administration; regulations

The Governor of the Farm Credit Administration is authorized to make advances or loans to individuals, under such regulations as he may prescribe, for the purpose of assisting in forming local agricultural-credit corporations, livestock-loan companies, or like organizations, or of increasing the capital stock of such corporations, companies, or organizations qualified to do business with Federal intermediate credit banks, or to which such privileges may be extended.

(Mar. 3, 1932, ch. 70, § 1, 47 Stat. 60; Ex. Ord. No. 6084, Mar. 27, 1933.)

TRANSFER OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

"Governor of the Farm Credit Administration" was substituted for "Secretary of Agriculture" and other changes effected by Ex. Ord. No. 6084, which is set out preceding section 2241 of this title.

§ 1402. Limitations on loans; financial structure of corporation, approval

(a) Limitation on loans to individual stockholders

No loans shall be made to individual stockholders on the capital stock of, or to create or increase the capital stock of such corporation, company, or organization in an amount in excess of 75 per centum of the par value of the capital stock of such corporation, company, or organization owned by or proposed to be subscribed to by such individual.

(b) Approval of financial structure of corporation by Governor of Farm Credit Administration

No loan shall be made upon the capital stock of any corporation until the Governor of the Farm Credit Administration shall find that the financial structure of such corporation is sound and unimpaired and by him approved, nor shall any loan be made upon the capital stock of such corporation until the management of such company shall be made known to and approved by the Governor, and the Governor shall have the right at any time to declare the indebtedness to the Government that may be created hereunder due whenever in his judgment the financial structure of the corporation shall become so impaired or the management become so unsatisfactory as to jeopardize the interests of the Government.

(Mar. 3, 1932, ch. 70, § 2, 47 Stat. 60; Ex. Ord. No. 6084, Mar. 27, 1933.)

TRANSFERS OF FUNCTIONS

Establishment of Farm Credit Administration as an independent agency, composition of Farm Credit Administration, appointment of Governor of Farm Credit Administration, and duties thereof, including duty to perform functions, etc., of Farm Credit Administration, see section 2241 et seq. of this title.

"Governor of the Farm Credit Administration" and "Governor" were substituted for "Secretary of Agriculture" and "Secretary," respectively and other changes were effected by Ex. Ord. No. 6084, which is set out preceding section 2241 of this title.

§ 1403. Minimum paid-in capital stock required to warrant loans

No loan or advance shall be made to any individual upon the capital stock of or to create or increase the capital stock of any corporation, unless the paid-in capital stock of such corporation shall be at least $10,000.

(Mar. 3, 1932, ch. 70, § 3, 47 Stat. 60.)

§ 1404. Authorization of appropriations; revolving fund

To carry out the provisions of this chapter, including all expenses incurred thereunder, there are authorized to be appropriated, out of the unexpended balances of appropriations made to carry out the provisions of Public Resolution Numbered 112, Seventy-first Congress (46 Stat. 1032), as amended by the Interior Department Appropriation Act for the fiscal year ending June 30, 1932, and as amended by Public Resolution Numbered 120 (46 Stat. 1167), and out of the collections from loans made under Public Resolution Numbered 112, as so amended, a sum not exceeding $10,000,000, which sum shall be paid into a revolving fund. Not to exceed 2 per centum of such fund may be used for expenses of administration. All moneys received from time to time upon the repayment of any advance or loan made pursuant to this chapter, together with the interest, shall be paid into the revolving fund and shall thereafter be available for the purposes and in the manner hereinbefore provided.

(Mar. 3, 1932, ch. 70, § 4, 47 Stat. 60.)

CHAPTER 11—FEDERAL HOME LOAN BANKS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1452, 1464 of this title.

§ 1421. Short title

This chapter may be cited as the "Federal Home Loan Bank Act."

(July 22, 1932, ch. 522, § 1, 47 Stat. 725.)

§ 1422. Definitions

As used in this chapter—

(1) The term "board" means the Federal Home Loan Bank Board.

(2) The term "Federal Home Loan Bank" means a bank established by the board under authority of this chapter.

(3) The term "State" includes the District of Columbia, Guam, Puerto Rico, and the Virgin Islands of the United States.

(4) The term "member" (except when used in reference to a member of the board) means any institution which has subscribed for the stock of a Federal Home Loan Bank.

(5) The term "home mortgage loan" means a loan made by a member or a nonmember borrower upon the security of a home mortgage.

(6) The term "home mortgage" means a mortgage upon real estate, in fee simple, or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed, upon which is located, or which comprises or includes, one or more homes or other dwelling units, all of which may be defined by the Board and shall include, in addition to first mortgages, such classes of first liens as are commonly given to secure advances on real estate by institutions authorized under this chapter to become members, under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

(7) The term "unpaid principal," when used in respect of a loan secured by a home mortgage means the principal thereof less the sum of (1) payments made on such principal, and (2) in cases where shares or stock are pledged as security for the loan, the payments made on such shares or stock plus earnings or dividends apportioned or credited thereon.

(8) An "amortized" or "installment" home mortgage loan shall, for the purposes of this chapter, be a home mortgage loan to be repaid or liquidated in not less than eight years by means of regular weekly, monthly, or quarterly payments made directly in reduction of the debt or upon stock or shares pledged as collateral for the repayment of such loan.

(9) The term "nonmember borrower" includes an institution authorized to secure advances from a Federal Home Loan Bank under the provisions of subsection (e) of section 1426 of this title.

(July 22, 1932, ch. 522, § 2, 47 Stat. 725; June 27, 1934, ch. 847, § 507, 48 Stat. 1264; May 28, 1935, ch. 150, § 1, 49 Stat. 293; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; July 14, 1952, ch. 723, § 10(c), 66 Stat. 604; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640; June 25, 1959, Pub. L. 86-70, § 9(a), 73 Stat. 142; July 12, 1960, Pub. L. 86-624, § 5(a), 74 Stat. 411; Oct. 9, 1962, Pub. L. 87-779, § 2(a), 76 Stat. 779.)

AMENDMENTS

1962—Subsec. (6). Pub. L. 87-779 substituted "upon which is located, or which comprises or includes, one or more homes or other dwelling units, all of which may be defined by the Board" for "upon which there is located a dwelling for not more than four families".

1960—Subsec. (3). Pub. L. 86-624 eliminated the Territory of Hawaii.

1959—Subsec. (3). Pub. L. 86-70 substituted "Territory of Hawaii" for "Territories of Alaska and Hawaii".

1952—Subsec. (3). Act July 14, 1952, added "Guam."

1935—Subsec. (6). Act May 28, 1935, substituted "four families" for "three families".

1934—Subsec. (6). Act June 27, 1934, omitted "first" preceding "mortgage" and inserted "or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed".

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955, ch. 783, § 109(a)(3) which is classified to subsec. (b) of section 1437 of this title.

TRANSFER OF FUNCTIONS

In subsec. (1) of this section "Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" by Reorg. Plan No. 3 of 1947, set out in the Appendix to Title 5, Government Organization and Employees. This Plan abolished the Federal Home Loan Bank Board and transferred its functions to the Home Loan Bank Board, created by said Reorganization Plan.

Federal Home Loan Bank Board grouped with other agencies to form Federal Loan Agency, see Reorg. Plan No. I of 1939, § 402(c), eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1423, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1423. Federal Home Loan Bank districts; number and boundaries; establishment of Federal Home Loan Banks; names

As soon as practicable the board shall divide the continental United States, Puerto Rico, the Virgin Islands, Guam, and the Territories of Alaska and Hawaii into not less than eight nor more than twelve districts. Such districts shall be apportioned with due regard to the convenience and customary course of business of the institutions eligible to and likely to subscribe for stock of a Federal Home Loan Bank to be formed under this chapter, but no such district shall contain a fractional part of any State. The districts thus created may be readjusted and new districts may from time to time be created by the board, not to exceed twelve in all. Such districts shall be known as Federal Home Loan Bank districts and may be designated by number. As soon as practicable the board shall establish, in each district, a Federal Home Loan Bank at such city as may be designated by the board. Its title shall include the name of the city at which it is established.

(July 22, 1932, ch. 522, § 3, 47 Stat. 726; July 14, 1952, ch. 723, § 10(c), 66 Stat. 604.)

AMENDMENTS

1952—Act July 14, 1952, inserted "Guam," after "Virgin Islands,".

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

CROSS REFERENCES

Financial control of Federal Home Loan Banks, see section 841 et seq. of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1426 of this title.

§ 1424. Eligibility of member and nonmember borrowers

(a) Qualifications for eligibility

Any building and loan association, savings and loan association, cooperative bank, homestead association, insurance company, or savings bank shall be eligible to become a member of, or a nonmember borrower of, a Federal Home Loan Bank if such institution (1) is duly organized under the laws of any State or of the United States; (2) is subject to inspection and regulation under the banking laws, or under similar laws, of the State or of the United States; and (3) makes such home mortgage loans as in the judgment of the board, are long-term loans (and in the case of a savings bank if, in the judgment of the board, its time deposits, as defined in section 461 of this title, warrant its making such loans). No institution shall be eligible to become a member of, or a nonmember borrower of, a Federal Home Loan Bank if, in the judgment of the board, its financial condition is such that advances may not safely be made to such institution or the character of its management or its home-financing policy is inconsistent with sound and economical home financing, or with the purposes of this chapter.

(b) Location requirement

An institution eligible to become a member or a nonmember borrower under this section may become a member only of, or secure advances from, the Federal Home Loan Bank of the district in which is located the institution's principal place of business, or of the bank of a district adjoining such district, if demanded by convenience and then only with the approval of the board.

(c) Inspection and regulation requirements

Notwithstanding the provisions of clause (2) of subsection (a) of this section requiring inspection and regulation under law as a condition with respect to eligibility for membership, any building and loan association which would be eligible to become a member of a Federal Home Loan Bank except for the fact that it is not subject to inspection and regulation under the banking laws or similar laws of the State in which such association is organized shall, upon subjecting itself to such inspection and regulation as the board shall prescribe, be eligible to become a member.

(July 22, 1932, ch. 522, § 4, 47 Stat. 726; June 13, 1933, ch. 64, § 3, 48 Stat. 129.)

REFERENCES IN TEXT

Section 461 of this title, referred to in subsec. (a), was in the original a reference to "section 19 of the Federal Reserve Act". Definition provisions of section 19 are classified to section 461 of this title. Other provisions of section 19 are classified to sections 142, 371a, 371b, 371b-1, 374, 374a, and 463 to 466 of this title.

REPEALS

Subsec. (d) providing for direct loans to home owners, was repealed by act June 13, 1933. The subject matter is covered by chapter 12 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1426 of this title.

§ 1425. Limitation on lawful contract rate of interest receivable by members and nonmember borrowers; applicability to home mortgage loans on single-family dwellings

No institution shall be admitted to or retained in membership, or granted the privileges of nonmember borrowers, if the combined total of the amounts paid to it for interest, commission, bonus, discount, premium, and other similar charges, less a proper deduction for all dividends, refunds, and cash credits of all kinds, creates an actual net cost to the home owner in excess of the lawful contract rate of interest applicable to such transactions, or, in case there is no lawful contract rate of interest applicable to such transactions, in excess of such rates as may be prescribed in writing by the Board acting in its discretion from time to time. This section applies only to home mortgage loans on single-family dwellings.

(July 22, 1932, ch. 522, § 5, 47 Stat. 727; Dec. 24, 1969, Pub. L. 91-152, title IV, § 416(a), 83 Stat. 401.)

AMENDMENTS

1969—Pub. L. 91-152 substituted provisions prohibiting from membership any institution creating an actual net cost to the home owner in excess of the lawful contract rate of interest applicable, or in excess of such rates as prescribed by the Board in its discretion from time to time in case there is no lawful rate applicable, with such limitations applicable only to home mortgage loans on single-family dwellings, for provisions prohibiting from membership any institution creating an actual net cost to the home owner in excess of the maximum legal rate of interest, or in excess of the lawful contract rate of interest applicable (regardless of any exemption from usury laws), or in excess of 8 per centum per annum in the State where such property is located in case there is no legal rate of interest or lawful contract rate of interest applicable, with such limitations applicable only to home mortgage loans made after July 22, 1932.

§ 1425a. Liquidity requirements

(a) Congressional declaration of purpose

The purpose of this section is to provide a means for creating meaningful and flexible liquidity in savings and loan associations and other members which can be increased when mortgage money is plentiful, maintained in easily liquidated instruments, and reduced to add to the flow of funds to the mortgage market in periods of credit stringency. More flexible liquidity will help support two main purposes of this chapter—sound mortgage credit and a more stable supply of such credit.

(b) Required types of assets

Any institution which is a member or which is an insured institution as defined in section 1724(a) of this title shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Board, is appropriate: (1) cash, (2) to such extent as the Board may approve for the purposes of this section, time and savings deposits in Federal Home Loan Banks and commercial banks, and (3) to such extent as the Board may so approve, such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency, or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Board may approve. The requirement prescribed by the Board pursuant to this subsection (hereinafter in this section referred to as the "liquidity requirement") may not be less than 4 per centum or more than 10 per centum of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less or, in the case of institutions which are insurance companies, such other base or bases as the Board may determine to be comparable.

(c) Amount; classification

The amount of any institution's liquidity requirement, and any deficiency in compliance therewith, shall be calculated as the Board shall prescribe. The Board may prescribe different liquidity requirements, within the limitations specified herein, for different classes of institutions, and for such purposes the Board is authorized to classify institutions according to type, size, location, rate of withdrawals, or, without limitation by or on the foregoing, on such other basis or bases of differentiation as the Board may deem to be reasonably necessary or appropriate for effectuating the purposes of this section.

(d) Penalty assessment

For any deficiency in compliance with the liquidity requirement, the Board may, in its discretion, assess a penalty consisting of the payment by the institution of such sum as may be assessed by the Board but not in excess of a rate equal to the highest rate on advances of one year or less, plus 2 per centum per annum, on the amount of the deficiency for the period with respect to which the deficiency existed. Any penalty assessed under this subsection against a member shall be paid to the Federal Home Loan Bank of which it is a member, and any such penalty assessed against an insured institution which is not a member shall be paid to the Federal Savings and Loan Insurance Corporation. The right to assess or to recover, or to assess and recover, any such penalty is not abated or affected by an institution's ceasing to be a member or ceasing to be insured. The Board may authorize or require that, at any time before collection thereof, and whether before or after the bringing of any action or other legal proceeding, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process therefor, and with or without consideration, any such penalty or recovery be compromised, remitted, or mitigated in whole or part. The penalties authorized under this subsection are in addition to all remedies and sanctions otherwise available.

(e) Reduction; suspension of requirements in time of national emergency

Whenever the Board deems it advisable in order to enable an institution to meet withdrawals or to pay obligations, the Board may, to such extent and subject to such conditions as it may prescribe, permit the institution to reduce its liquidity below the minimum amount. Whenever the Board determines that conditions of national emergency or unusual economic stress exist, the Board may suspend

any part or all of the liquidity requirements hereunder for such period as the Board may prescribe. Any such suspension, unless sooner terminated by its terms or by the Board, shall terminate at the expiration of ninety days next after its commencement, but nothing in this sentence prevents the Board from again exercising, before, at, or after any such termination, the authority conferred by this subsection.

(f) Rules and regulations; investigations by Board

The Board is authorized to issue such rules and regulations, including definitions of terms used in this section, to make such examinations, and to conduct such investigations as it deems necessary or appropriate to effectuate the purposes of this section. The reasonable cost of any such examination or investigation, as determined by the Board, shall be paid by the institution. In connection with any such examination or investigation the Board has the same functions and authority that the Federal Savings and Loan Insurance Corporation has under subsection (m) of section 1730 of this title, and for purposes of this subsection the provisions of said subsection (m), including the next to last sentence but not including the last sentence, and the provisions of the first sentence of subsection (n) of that section are applicable in the same manner and to the same extent that they would be applicable if all references therein to the Corporation were also references to the Board and all references therein to that section or any part thereof were also references to this section.

(July 22, 1932, ch. 522, § 5A, as added June 27, 1950, ch. 369, § 1, 64 Stat. 257, and amended Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640; Sept. 21, 1968, Pub. L. 90-505, § 4, 82 Stat. 856.)

AMENDMENTS

1968—Subsecs. (a), (b). Pub. L. 90-505 added subsecs. (a) and (b).

Subsec. (c). Pub. L. 90-505 designated existing provisions as subsec. (c) and, in subsec. (c) as so designated, substituted provisions authorizing the Board to prescribe the method of calculating an institution's liquidity requirement for provisions prohibiting the making or purchase of loans at times when a member's cash and obligations of the United States are not equal to amounts prescribed by the Board, setting the range of 4 to 8 per centum as the allowable range for the percentage which a member's cash and United States obligations bear to its withdrawable accounts, and making failure to comply with such provisions a ground for removal from membership.

Subsecs. (d) to (f). Pub. L. 90-505 added subsecs. (d), (e), and (f).

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955, ch. 783, § 109(a)(3) which is classified to subsec. (b) of section 1437 of this title.

EFFECTIVE DATE

Section 1 of act June 27, 1950, provided in part that this section shall become effective six months after June 27, 1950.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1464 of this title.

§ 1425b. Rate of interest payable on deposits, shares or withdrawable accounts by members, insured institutions and other nonmember financial institutions

(a) Rules and regulations

The Board may from time to time, after consulting with the Board of Governors of the Federal Reserve System and the Board of Directors of the Federal Deposit Insurance Corporation, prescribe rules governing the payment and advertisement of interest or dividends on deposits, shares, or withdrawable accounts, including limitations on the rates of interest or dividends on deposits, shares, or withdrawable accounts that may be paid by members, other than those the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], by institutions which are insured institutions as defined in section 1724(a) of this title, and by nonmember building and loan, savings and loan, and homestead associations, and cooperative banks. The Board may prescribe different rate limitations for different classes of deposits, shares, or withdrawable accounts, for deposits, share, or withdrawable accounts of different amounts or with different maturities or subject to different conditions regarding withdrawal or repayment, according to the nature or location of such members, institutions, or nonmembers or their depositors, shareholders or withdrawable account holders, or according to such other reasonable bases as the Board may deem desirable in the public interest. The authority conferred by this subsection shall apply to nonmember building and loan, savings and loan, and homestead associations, and cooperative banks in any State if (1) the total amount of deposits, shares, and withdrawable accounts held in all such nonmember associations and banks in the State, plus the total amount of time and savings deposits held in all banks in the State which are not insured by the Federal Deposit Insurance Corporation, is more than 20 per centum of the total amount of such deposits, shares, and withdrawable accounts held in all banks, and building and loan, savings and loan, and homestead associations (including cooperative banks) in the State, and (2) there does not exist under the laws of such State a bank supervisory agency with authority comparable to that conferred by the first two sentences of this subsection, including specifically the authority to regulate the rates of interest and dividends paid by any such association or bank on deposits, shares, or withdrawable accounts, or if such agency exists it has not issued regulations in the exercise of that authority. Such authority shall only be exercised by the Board with respect to such nonmember associations and banks prior to July 31, 1970, to limit the rates of interest or dividends which such associations or banks may pay on deposits, shares, or withdrawable accounts to maximum rates not lower than 5½ per centum per annum. The provisions of this subsection shall apply, in the discretion of the Board, to an obligation issued by an affiliate of an institution which is an insured institution as defined in section 1724(a) of this title. The Board is authorized to define by regulation the terms used in this section, except that the Board may not, under the addi-

tional authority conferred by this sentence and the preceding sentence, define as a deposit any debt obligation which is an exempted security under section 77c(a)(3) of title 15.

(b) Civil penalties; discretion of Board

In addition to any other penalty provided by this or any other law, any person or organization which violates a rule promulgated pursuant to this section shall be subject to such civil penalties, which shall not exceed $100 for each violation, as may be prescribed by said Board by rule and such rule may provide with respect to any or all such violations that each day on which the violation continues shall constitute a separate violation. The Board may recover any such civil penalty for its own use, through action or otherwise, including recovery thereof in any other action or proceeding under this section. The Board may, at any time before collection of any such penalty, whether before or after the bringing of an action or other legal proceeding, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process therefor, and with or without consideration, compromise, remit, or mitigate in whole or in part any such penalty or any such recovery.

(c) Enforcement powers of Board

Whenever it shall appear to the Board that any person or organization is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this section or of any regulations thereunder, the Board may, in its discretion bring an action in the United States district court for the judicial district in which the principal office of the person or organization is located to enjoin such acts or practices, to enforce compliance with this section or any regulations thereunder, or for a combination of the foregoing, and such courts shall have jurisdiction of such actions, and, upon a proper showing, an injunction, restraining order, or other appropriate order may be granted without bond.

(d) Expenses

All expenses of the Board under this section shall be considered as nonadministrative expenses.

(e) State usury laws inapplicable to certain obligations

No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.

(July 22, 1932, ch. 522, § 5B, as added Sept. 21, 1966, Pub. L. 89-597, § 4, 80 Stat. 824, and amended Sept. 21, 1968, Pub. L. 90-505, § 2(c), 82 Stat. 856; Dec. 23, 1969, Pub. L. 91-151, § 2(b), 83 Stat. 372; Oct. 29, 1974, Pub. L. 93-501, title I, § 103, title III, § 303, 88 Stat. 1558, 1560.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a), is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note under section 1811 of this title.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-501, § 103(1), added provisions that in the discretion of the Board, this subsection applies to obligations issued by affiliates of insured institutions, and that Board is authorized to define the terms used in this section except that it may not define a deposit to include a debt obligation which is an exempted security under section 77c(a)(3) of title 15.

Subsec. (b). Pub. L. 93-501, § 103(2), substituted "In addition to any other penalty provided by this or any other law, any person or organization" for "In addition to any other penalty provided by this or any other law, any institution subject to this section".

Subsec. (c). Pub. L. 93-501, § 103(3), substituted "Whenever it shall appear to the Board that any person or organization" for "Whenever it shall appear to the Board that any non-member institution", and "principal office of the person or organization" for "principal office of the institution".

Subsec. (e). Pub. L. 93-501, § 303, added subsec. (e).

1969—Pub. L. 91-151 designated existing provisions as subsec. (a), added subsecs. (b)-(d), and in subsec. (a) as so designated, extended the regulatory powers of the Federal Home Loan Bank Board to nonmember building and loan, savings and loan, homestead associations and cooperative banks in the states where the uninsured savings deposits exceed 20 per cent of total savings deposits and where state laws do not provide for such regulations, and, up to July 31, 1970, empowered the Board to prevent the rates paid by such noninsured institutions from exceeding 5½ per cent.

1968—Pub. L. 90-505 gave the Board power to prescribe rules governing the payment and advertisement of interest or dividends on deposits, shares, or withdrawable accounts.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-501 applicable to deposits made or obligations issued in any state after Oct. 29, 1974, but prior to the earlier of July 1, 1977 or the date of enactment by the state of a law limiting the amount of interest which may be charged in connection with such deposits or obligations, see section 304 of Pub. L. 93-501, set out as a note under section 371b-1 of this title.

EFFECTIVE AND TERMINATION DATES

Section repealed effective March 1, 1977, see section 7(4) of Pub. L. 89-597, as amended, set out as a note under section 461 of this title.

INTEREST RATES; CONTROLS

Reduction of interest rates to maximum extent feasible in light of prevailing money market and general economic conditions, see section 1 of Pub. L. 89-597, set out as a note under section 461 of this title.

CROSS REFERENCES

Enforcement by the Federal Home Loan Bank Board of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, in the case of institutions subject to subsec. (i) of section 1426, see section 1607 of Title 15.

§ 1426. Capital stock

(a) Minimum amount; subscription books

As soon as practicable after July 22, 1932, the board, with the approval of the Secretary of the Treasury, shall determine the minimum capital of each Federal Home Loan Bank which shall be not less than $5,000,000. The board shall, as soon as practicable thereafter, open books in each district established under section 1423 of this title for subscription to the capital stock of the Federal Home Loan Bank of the district.

(b) Par value of shares

The capital stock of each Federal Home Loan Bank shall be divided into shares of a par value of $100 each. The minimum capital stock shall be issued at par. Stock issued thereafter shall be issued at such price not less than par as may be fixed by the board.

(c) Minimum subscriptions; retirement of oversubscriptions; limitations; cancellation of oversubscriptions; aggregate unpaid loan principal; reports and information

(1) The original stock subscription of each institution eligible to become a member under section 1424 of this title shall be an amount equal to 1 per centum of the subscriber's aggregate unpaid loan principal, but not less than $500. The bank shall annually, as of the close of the calendar year, adjust, at such time and in such manner and upon such terms and conditions as the Federal Home Loan Bank Board may by regulations or otherwise prescribe, the amount of stock held by each member so that such member shall have invested in the stock of the Federal Home Loan Bank at least an amount calculated in the manner provided in the next preceding sentence (but not less than $500). If the bank finds that the investment of any member in stock is greater than that required under this subsection it may, unless prohibited by said Board or by the provisions of paragraph (2) of this subsection, in its discretion and upon application of such member retire the stock of such member in excess of the amount so required. Said Board, in its discretion, may, by regulations or otherwise, provide for adjustments in amounts of stock to be issued or retired in order that stock may be issued or retired only in entire shares.

(2) The provisions of paragraph (1) of this subsection shall be subject to the following limitations:

(i) No member which is a member on September 8, 1961 shall be permitted to reduce its stock to an amount which is less than the amount held by it as of the close of such date, except that a member may at any time reduce its stock to an amount which is not less than 2 per centum of its aggregate unpaid loan principal as of the beginning of the calendar year in which the reduction is made (but not less than $500): *Provided,* That if the amount to which such stock is so reduced is less than 2 per centum of such member's aggregate unpaid loan principal as of the close of September 8, 1961 such reduction may be made only to such extent as said Board in its discretion may by regulations or otherwise provide.

(ii) Notwithstanding any other provision of this subsection, no action shall be taken by any bank with respect to any member pursuant to any of the foregoing provisions of this subsection if the effect of such action would be to cause the aggregate outstanding advances, within the meaning of the last sentence of subsection (c) of section 1430 of this title or within the meaning of regulations of said Board defining said term for the purposes of this sentence, made by such bank to such member to exceed twelve times the amounts paid in by such member for outstanding capital stock held by such member.

(3) Except as provided in subsection (i) of this section, upon retirement of stock of any member the bank shall pay such member for the stock retired an amount equal to the par value of such stock, or, at the election of the bank, the whole or any part of the payment which would otherwise be so made shall be credited upon the indebtedness of the member to the bank. In either such event, stock equal in par value to the amount of the payment or credit, or both, as the case may be, shall be canceled.

(4) For the purposes of this subsection, the term "aggregate unpaid loan principal" means the aggregate unpaid principal of a subscriber's or member's home mortgage loans, home-purchase contracts, and similar obligations.

(5) The Federal Home Loan Bank Board, by regulations or otherwise, may require each member to submit such reports and information as said Board, in its discretion, may determine to be necessary or appropriate for the purposes of this subsection.

(d) Payments for stock

Stock subscriptions other than by the United States shall be paid for in cash, and shall be paid for at the time of application therefor, or, at the election of the subscriber, in installments, but not less than one-fourth of the total amount payable shall be paid at the time of filing application, and a further sum of not less than one-fourth of such total shall have been paid at the end of each succeeding period of four months.

(e) Loans to institutions not authorized to subscribe to stock

If the law of the State under which an institution described in section 1424 of this title operates does not permit such institution to subscribe for stock in the Federal Home Loan Bank but if such institution has the power to borrow money and give security therefor, the board may permit such institution to obtain advances on the same terms and conditions and subject to the same limitations as members (except that such institution shall not be required, during the period during which advances may be made under this subsection, to subscribe for stock in the Federal Home Loan Bank or to deposit such stock as collateral security as required in section 1430 of this title), but such institution shall be required to keep on deposit such security, in addition to home mortgages, for such advances, as the board shall determine, which shall equal in value 1 per centum of the aggregate unpaid principal of such institution's home mortgage loans (but not less than $500). No advance to any such institution shall be made under authority of this

subsection after the State in which the institution is organized enacts legislation authorizing such institution to subscribe for Federal Home Loan Bank stock or after the expiration of the next regular session of the legislature of such State begun after July 22, 1932, whichever is earlier. If, at the end of such time, such institution is not authorized to subscribe for stock, the bank shall proceed to liquidate the indebtedness of such institution to the bank and to terminate its relations with such institution. No advance shall be made under authority of this subsection which matures more than one year after the advance is made, but the bank may renew any such advance for yearly periods, or less, thereafter. The maturity of no advance authorized under this subsection shall be later than the time of the enactment of legislation authorizing such institution to become a member or the expiration of such session of the legislature of the State, whichever is earlier.

(f) Subscription by United States; maximum amount; payments

The Secretary of the Treasury shall subscribe, on behalf of the United States, for such part of the minimum capital of each Federal Home Loan Bank as is not subscribed for by members under subsection (c) of this section within thirty days after books have been opened for stock subscriptions as provided in subsection (a) of this section. Payments for stock subscriptions by the Secretary of the Treasury shall be subject to call in whole or in part by the board, with the approval of the Secretary of the Treasury, at such time or times as may be deemed advisable. Each Federal Home Loan Bank receiving such payments shall issue receipts therefor to the Secretary of the Treasury, and such receipts shall be evidence of the stock ownership of the United States. The aggregate amount expended by the United States for the purchase of stock under this chapter shall not exceed $125,000,000.

(g) Retirement of stock of United States

After the amount of capital of a Federal Home Loan Bank paid in by members equals the amount paid in by the Secretary of the Treasury under subsection (f) of this section, such bank shall apply annually to the payment and retirement of the shares of the capital stock held by the United States, 50 per centum of all sums thereafter paid in as capital until all such capital stock held by the United States is retired at par. Stock held by the United States may at any time, in the discretion of the Federal Home Loan Bank and with the approval of the board, be paid off at par and retired in whole or in part; and the board may at any time require such stock to be paid off at par and retired in whole or in part if in the opinion of the board the Federal Home Loan Bank has resources available therefor: *Provided,* That accumulated dividends, as provided in subsection (k) of this section, have been paid.

(h) Transfer or hypothecation of stock

Stock subscribed for otherwise than by the United States, and the right to the proceeds thereof, shall not be transferred or hypothecated except as hereinafter provided and the certificates therefor shall so state.

(i) Withdrawal or removal of members; surrender and cancellation of stock

Any member other than a Federal savings and loan association may withdraw from membership in a Federal Home Loan Bank six months after filing with the board written notice of intention so to do, and the board may, after hearing, remove any member from membership, or deprive any nonmember borrower of the privilege of obtaining further advances, if, in the opinion of the board, such member or nonmember borrower (i) has failed to comply with any provision of this chapter or regulation of the board made pursuant thereto; (ii) is insolvent: *Provided,* That any member of a bank which is a building and loan association, savings and loan association, cooperative bank, or homestead association shall be deemed insolvent if the assets of such member are less than its obligations to its creditors and others, including the holders of its withdrawable accounts; or (iii) has a management or home-financing policy of a character inconsistent with sound and economical home financing or with the purposes of this chapter. In any such case, the indebtedness of such member or nonmember borrower to the Federal Home Loan Bank shall be liquidated, and the capital stock in the Federal Home Loan Bank owned by such member shall be surrendered and canceled. Upon the liquidation of such indebtedness such member or nonmember borrower shall be entitled to the return of its collateral, and, upon surrender and cancellation of such capital stock, the member shall receive a sum equal to its cash paid subscriptions for the capital stock surrendered, except that if at any time the board finds that the paid-in capital of a Federal Home Loan Bank is or is likely to be impaired as a result of losses in or depreciation of the assets held, the Federal Home Loan Bank shall on the order of the board withhold from the amount to be paid in retirement of the stock a pro rata share of the amount of such impairment as determined by the board.

(j) Disposal of stock

A Federal Home Loan Bank may, with the approval of the board, permit the disposal of stock to another member, or to an institution eligible to become a member, but only to enable such an institution to become a member.

(k) Dividends

All stock of any Federal Home Loan Bank shall share in dividend distributions without preference.

(July 22, 1932, ch. 522, § 6, 47 Stat. 727; June 27, 1934, ch. 847, § 509, 48 Stat. 1264; May 28, 1935, ch. 150, § 2, 49 Stat. 293; June 27, 1950, ch. 369, § 2, 64 Stat. 257; Aug. 11, 1955, ch. 783, title I, § 109(a)(1), 69 Stat. 640; Sept. 8, 1961, Pub. L. 87-210, §§ 1, 2, 75 Stat. 482, 483.)

AMENDMENTS

1961—Subsec. (c). Pub. L. 87-210, § 1, amended subsection generally, and among other changes, authorized the bank to adjust at the end of each calendar year, under Board regulations, the stock held by each member, to retire stock of members in excess of required amounts, prohibited members to reduce stock to less than the amount held on Sept. 8, 1961, except for a reduction at any time to not less than 2 percent of its aggregate unpaid loan principal as of the begin-

ning of the calendar year in which reduction is made, but not less than $500, or if reduced to less than 2 percent, such reduction to be in the discretion of the Board, provided that no bank shall act so as to cause the aggregate outstanding advances, within the meaning of regulations of the Board defining said term, to exceed 12 times the amounts paid in by members for outstanding capital stock held by such members, defined the term "aggregate unpaid loan principal" and authorized the board to require members to submit reports and information for purposes of this subsection.

Subsec. (*l*). Pub. L. 87-210, § 2, repealed subsec. (*l*), which required members to acquire, hold and maintain their stock holding in an amount equal to at least 2 per centum of the aggregate of the unpaid principal of such member's home mortgage loans, home-purchase contracts, and similar obligations, but not less than $500, and provided for the retirement of Government-owned stock.

1955—Subsec. (i). Act Aug. 11, 1955, provided that a Federal savings and loan association may not withdraw voluntarily, inserted proviso clause in item (ii), and inserted provisions authorizing removal of a member institution which has a management or home-financing policy of a character inconsistent with sound and economical home financing or with the purposes of this chapter.

1950—Subsec. (*l*). Act June 27, 1950, added subsec. (*l*).

1935—Subsec. (k). Act May 28, 1935, omitted former exception clause, relating to stock held by the United States.

1934—Subsecs. (c), (e). Act June 27, 1934, substituted "$500" for "$1,500".

EFFECTIVE DATE OF 1961 AMENDMENT

Section 7 of Pub. L. 87-210 provided that: "This Act [amending this section and section 1727 of this title, and enacting provisions set out as a note under section 1727 of this title] shall become effective on January 1 next following the date of its enactment [Sept. 8, 1961]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1422, 1430, 1727, 1730, 2804 of this title; title 15 sections 1607, 1681s, 1691c.

§ 1427. Directors

(a) Number; appointment and election; qualifications

The management of each Federal home loan bank shall be vested in a board of fourteen directors, eight of whom shall be elected by the members as hereinafter provided in this section and six of whom shall be appointed by the Federal Home Loan Bank Board referred to in subsection (b) of section 1437 of this title, hereinafter in this section referred to as the Board, all of whom shall be citizens of the United States and bona fide residents of the district in which such bank is located: *Provided*, That in any district which includes five or more States the Board may by regulation increase the elective directors to a number not exceeding thirteen and may increase the appointive directors to a number not exceeding three-fourths the number of elective directors: *Provided further*, That if at any time the number of elective directors in the case of any district is not at least equal to the number of States in such district the Board shall exercise the authority conferred by the next preceding proviso so as to increase such elective directors to a number at least equal to the number of States in such district.

(b) Elective directorships; qualifications; nominations and election

Each elective directorship shall be designated by the Board as representing the members located in a particular State, and shall be filled by a person who is an officer or director of a member located in that State, each of which members shall be entitled to nominate an eligible person for such directorship, and such office shall be filled from such nominees by a plurality of the votes which such members may cast in an election held for the purpose of filling such office, in which election each such member may cast for such office a number of votes equal to the number of shares of stock in such bank required by this chapter to be held by such member at the end of the calendar year next preceding the election, as determined pursuant to regulation of the Board, but not in excess of the average number of shares of stock in such bank required by this chapter to be held at the end of such calendar year by the respective members of such bank located in such State, as so determined. As used in this subsection and in subsection (c) of this section, the term "member" means a member of a Federal home loan bank which was a member of such bank at the end of such calendar year.

(c) Apportionment among States in bank district; designation of State location

The number of elective directorships designated as representing the members located in each separate State in a bank district shall be determined by the Board in the approximate ratio of the percentage of the required stock, as determined pursuant to regulation of the Board, of the members located in that State at the end of the calendar year next preceding the date of the election to the total required stock, as so determined, of all members of such bank at the end of such year, except that in the case of each State such number shall not be less than one and shall not be more than six. Notwithstanding any other provision of this section, if at any time the number of elective directorships so designated as representing the members located in any State would not be at least equal to the total number of elective directorships which, on December 31, 1960, were filled by officers or directors of members whose principal places of business were located in such State, the Board shall add to the board of directors of the bank of the district in which such State is located such number of elective directorships, and shall so designate the directorship or directorships thus added, that the number of elective directorships designated as representing the members located in such State will equal said total number. Any elective directorship so added shall exist only until the expiration of its first term. The Board shall, with respect to each member of a Federal home loan bank, designate the State in the district of such bank in which such member shall, for the purposes of this subsection and subsection (b) of this section, be deemed to be located, and may from time to time change any such designation, but if the principal place of business of any such member is located in a State of such district it shall be the duty of the Board to designate such State as the State in which such member shall, for said purposes, be deemed to

be located. As used in the second sentence of this subsection, the term "total number of elective directorships" means the total number of elective directorships on the board of directors of the bank of the district in which such State was located on December 31, 1960, and the term "members" where used for the second time in such sentence means members of such bank.

(d) Terms; rules and regulations governing nominations and elections

The term of each elective directorship shall be two years and the term of each appointive directorship shall be four years. If any person, before or after, or partly before and partly after, September 8, 1961, has been elected to each of three consecutive full terms as an elective director of a Federal home loan bank in any elective directorship or elective directorships and has served for all or part of each of said terms, such person shall not be eligible for election to an elective directorship of such bank for a term which begins earlier than two years after the expiration of the last expiring of said three terms. The Board is authorized to prescribe such rules and regulations as it may deem necessary or appropriate for the nomination and election of directors of Federal home loan banks, including, without limitation on the generality of the foregoing, rules and regulations with respect to the breaking of ties and with respect to the inclusion of more than one directorship on a single ballot and the methods of voting and of determining the results of voting in such cases.

(e) Continuation of existing terms; directorship for the Commonwealth of Puerto Rico

Each term, outstanding on the effective date of the amendment to this section abolishing the division of elective directors into classes, of an elective or appointive directorship then existing shall continue until its original date of expiration, and any elective or appointive directorship in existence on said date shall continue to exist to the same extent as if it had been established by or under this section on or after said date. The Board in its discretion may shorten the next succeeding term of any such elective directorship to one year, and may fill such term by appointment. The term "States" or "State" as used in this section shall mean the States of the Union, the District of Columbia, and the Commonwealth of Puerto Rico. The Board, by regulation or otherwise, may add an additional elective directorship to the board of directors of the bank of any district in which the Commonwealth of Puerto Rico is included at the time such directorship is added and which does not then include five or more States, may fix the commencement and the duration, which shall not exceed two years, of the initial term of any directorship so added, and may fill any such initial term by appointment: *Provided*, That (1) any directorship added pursuant to the foregoing provisions of this sentence shall be designated by the Board, pursuant to subsection (b) of this section, as representing the members located in the Commonwealth of Puerto Rico, (2) such designation of such directorship shall not be changed, and (3) such directorship shall automatically cease to exist if and when the Commonwealth of Puerto Rico ceases to be included in such district.

(f) Vacancies

In the event of a vacancy in any appointive or elective directorship, such vacancy shall be filled through appointment by the Board for the unexpired term: *Provided*, That if any director shall cease to have the qualifications set forth in subsection (a) of this section, or if any elective director shall cease to have any qualification set forth in this section, the office held by such director shall immediately become vacant, but such director may continue to act as such director until his successor assumes the vacated office or the term of such office expires, whichever shall first occur.

(g) Chairman and vice chairman

The Board shall designate one of the directors of each bank to be chairman, and one to be vice chairman, of the board of directors of such bank.

(h) Appointment where members hold less than $1,000,000 of capital stock

If at any time when nominations are required members shall hold less than $1,000,000 of the capital stock of the Federal home loan bank, the Board shall appoint a director or directors to fill the place or places for which such nominations are required, and the Board may, prior to the filing of the certificate mentioned in section 1432 of this title, appoint directors who shall be respectively designated by it as appointive directors and as elective directors, in accordance with the provisions of this section.

(i) Compensation and expenses of director

Each bank may pay its directors reasonable compensation for the time required of them, and their necessary expenses, in the performance of their duties, in accordance with the resolutions adopted by such directors, subject to the approval of the board.

(j) Duties of directors

Such board of directors shall administer the affairs of the bank fairly and impartially and without discrimination in favor of or against any member or nonmember borrower, and shall, subject to the provisions hereof, extend to each institution authorized to secure advances such advances as may be made safely and reasonably with due regard for the claims and demands of other institutions, and with due regard to the maintenance of adequate credit standing for the Federal Home Loan Bank and its obligations.

(July 22, 1932, ch. 522, § 7, 47 Stat. 730; May 28, 1935, ch. 150, § 3(a), (b), 49 Stat. 294; Aug. 11, 1955, ch. 783, title I, § 109(a)(2), 69 Stat. 640; Sept. 22, 1959, Pub. L. 86-349, §§ 1, 2, 73 Stat. 625; Sept. 8, 1961, Pub. L. 87-211, § 1, 75 Stat. 486; Sept. 19, 1962, Pub. L. 87-676, 76 Stat. 559; Dec. 26, 1974, Pub. L. 93-541, § 3, 88 Stat. 1739.)

REFERENCES IN TEXT

The effective date of the amendment to this section, referred to in subsec. (e), probably means the effective date of Pub. L. 87-211. See effective date note under this section.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-541 increased the number of directors from twelve to fourteen, increased the number of appointive directors from four to six, and in the proviso relating to districts including five or more states, substituted provisions authorizing increase of appointive directors to a number not exceeding three-fourths the number of elective directors for provisions authorizing increase of appointive directors to a number not exceeding one-half the number of elective directors.

1962—Subsec. (e). Pub. L. 87-676 included the Commonwealth of Puerto Rico within the term "States" or "State", and authorized the Board to add an additional elective directorship to the board of the bank of any district in which the Commonwealth of Puerto Rico is included at the time such directorship is added and which doesn't include five or more States, and to fill such initial term by appointment, provided, that any such added directorship shall be designated as representing the members in the Commonwealth of Puerto Rico, that such designation shall not be changed, and that such directorship shall cease to exist if and when the Commonwealth of Puerto Rico ceases to be included in such district.

1961—Subsec. (a). Pub. L. 87-211 authorized the Board to increase the appointive directors in any district which includes five or more States to a number not exceeding one-half the number of elective directors, directed the Board to exercise its authority to increase the elective directors to a number at least equal to the number of States in a district whenever the number of elective directors in the district is not at least equal to the number of States in the district, and eliminated provisions which related to apportionment of additional elective directors, required at least one but not more than three elective directors from any of the States in any district in which the number of elective directors is increased, limited the number of elective directors in any one district to not more than eleven, and defined the term "States". See subsec. (c) of this section.

Subsec. (b). Pub. L. 87-211 amended subsection generally by substituting provisions relating to the designation of elective directorships, nominations for such office, manner of election, and the voting power of each member, for provisions which required four directors to be appointed by the Board, limited their term of office to four years, and which authorized the Board to increase the total number of appointive directors to not more than one-half the total number of elective directors in cases where the number of elective directors has been increased. See subsec. (a) of this section.

Subsec. (c). Pub. L. 87-211 required the number of elective directorships designated as representing the members located in each separate State in a bank district to be determined by the Board in the approximate ratio of the percentage of the required stock of the members located in that State at the end of the calendar year next preceding the date of the election to the total required stock of all members of such bank at the end of such year, except that in the case of each State such number shall not be less than one and not more than six, directed the Board, in cases where the number of elective directorships in any State would not be at least equal to the total number of elective directorships in such State on Dec. 31, 1960, to add such number of elective directorships so that their number will equal such total number, provided that an elective directorship so added shall exist only until the expiration of its first term, authorized the designation of State location of each member, defined the terms "total number of elective directorships" and "members", and eliminated provisions which related to the election of two directors from each of the classes A, B, and C and limited their term of office to two years. See subsec. (d) of this section.

Subsec. (d). Pub. L. 87-211 established the term of each elective directorship at two years and of each appointive directorship at four years, restricted eligibility for election of persons elected to each of three consecutive full terms and who have served for all or part of each of said terms, empowered the Board to prescribe rules and regulations for the nomination and election of directors, and eliminated provisions which required two directors to be elected by the members of the bank without regard to classes and limited their term of office to two years.

Subsec. (e). Pub. L. 87-211 amended subsection generally by substituting provisions permitting continuation of terms of elective and appointive directorships, empowering the Board to shorten the next succeeding term of any elective directorship to one year and to fill such term by appointment, and defining the terms "States" and "State", for provisions which required the Board to divide members of each bank into either group A, B, or C, permitted each member to nominate persons for election as directors of the class corresponding to the group to which the member belongs, and limited each member to one vote for each director in its class.

Subsec. (f). Pub. L. 87-211 substituted "In the event of a vacancy in any appointive or elective directorship, such vacancy shall be filled through appointment by the Board for the unexpired term" for "Any director appointed or elected as provided in this section to fill a vacancy shall hold office only until the expiration of the term of his predecessor", and inserted proviso stating that if any director ceases to have the qualifications set forth in this section his office shall immediately become vacant but permits him to act as such director until his successor assumes the vacated office or the term of his office expires, whichever first occurs.

Subsec. (g). Pub. L. 87-211 reenacted subsec. (g) without change.

Subsec. (h). Pub. L. 87-211 authorized the Board, prior to the filing of the certificate mentioned in section 1432 of this title, to appoint directors and required the Board to designate the appointees as either appointive or elective directors, and eliminated provisions which permitted directors appointed under this subsection to serve until the expiration of the calendar year during which they took office.

1959—Subsec. (a). Pub. L. 86-349, § 1, authorized increase of up to 13 in the number of elective directors of bank having district which includes five or more States.

Subsec. (b). Pub. L. 86-349, § 2, authorized increase in the number of appointive directors of up to one-half the number of elective directors in district in which number of elective directors were increased pursuant to subsec. (a), and provided for expiration of term of initial incumbent of any office so established.

1955—Subsec. (a). Act Aug. 11, 1955, authorized an increase in the number of elective directors of any Federal Home Loan Bank having a district which includes five or more States.

1935—Act May 28, 1935, among other changes, added subsec. (d) and relettered former subsecs. (d) to (i) to be (e) to (j).

EFFECTIVE DATE OF 1961 AMENDMENT

Section 2 of Pub. L. 87-211 provided that: "The amendment made by this Act [to this section] shall take effect on the second day of the first calendar year which begins after the date of enactment of this Act [Sept. 8, 1961]."

EFFECTIVE DATE OF 1935 AMENDMENT

Amendment by act May 28, 1935, effective Jan. 1, 1936.

§ 1428. Examination of State laws, regulations, and procedures; studies of values, etc.

The board shall cause to be made from time to time examinations of the laws of the various States of the United States and the regulations and procedure thereunder governing conditions under which institutions of the kinds which may become members or nonmember borrowers

under this chapter are permitted to be formed or to do business, or relating to the conveying or recording of land titles, or to homestead and other rights, or to the enforcement of the rights of holders of mortgages on lands securing loans, or otherwise. If any such examination shall indicate, in the opinion of the board, that under the laws of any such State or the regulations or procedure thereunder there would be inadequate protection to a Federal Home Loan Bank in making or collecting advances under this chapter, the board may withhold or limit the operation of any Federal Home Loan Bank in such State until satisfactory conditions of law, regulation, or procedure shall be established. In any State where State examination of members or nonmember borrowers is deemed inadequate for the purposes of the Federal Home Loan Banks, the board shall establish such examination, all or part of the cost of which may be considered as part of the cost of making advances in such State. The banks and/or the board may make studies of trends of home and other property values, methods of appraisals, and other subjects such as they may deem useful for the general guidance of their policies and operations and those of institutions authorized to secure advances.

(July 22, 1932, ch. 522, § 8, 47 Stat. 731.)

§ 1428a. Federal Savings and Loan Advisory Council; creation; composition and duties

There is hereby created a Federal Savings and Loan Advisory Council, which shall continue to exist as long as the Board biannually determines, as a matter of formal record, after consultation with the Director of the Office of Management and Budget, with timely notice in the Federal Register, to be in the public interest in connection with the performance of duties imposed on the Council by law. The Council shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act. The Council shall consist of one member for each Federal Home Loan Bank district to be elected annually by the board of directors of the Federal Home Loan Bank in such district and twelve members to be appointed annually by the Board to represent the public interest. Each such elected member shall be a resident of the district for which he is elected. All members of the Council shall serve without compensation, but shall be entitled to reimbursement from the Board for traveling expenses incurred in attendance at meetings of such Council. The Council shall meet at Washington, District of Columbia, at least twice a year and oftener if requested by the Board. The Council may select its chairman, vice chairman, and secretary, and adopt methods of procedure, and shall have power—

(1) To confer with the Board on general business conditions, and on special conditions affecting the Federal Home Loan Banks and their members and the Federal Savings and Loan Insurance Corporation.

(2) To request information, and to make recommendations, with respect to matters within the jurisdiction of the Board and the Federal Savings and Loan Insurance Corporation.

(July 22, 1932, ch. 522, § 8a, as added May 28, 1935, ch. 150, § 4, 49 Stat. 294, and amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Dec. 26, 1974, Pub. L. 93-541, § 6, 88 Stat. 1739.)

References in Text

The Federal Advisory Committee Act, referred to in text, is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

Amendments

1974—Pub. L. 93-541 substituted provisions that the Council continue to exist as long as the Board biannually determines it to be in the public interest, that the Council shall be subject to the Federal Advisory Committee Act, that the Council shall consist of one member for each Federal Home Loan Bank district to be elected annually by the board of directors of the Federal Home Loan Bank in such district, and that twelve members are to be appointed annually by the board to represent the public interest, for provisions that the Council shall consist of one member for each Federal Home Loan Bank district to be elected annually by the Board of directors of the Federal Home Loan Bank in such district and six members to be appointed annually by the Board.

Transfer of Functions

In clauses (1) and (2) of this section, "and board of trustees of the Federal Savings and Loan Insurance Corporation" were omitted and "such Corporation" at end of clause (1) was changed to "the Federal Savings and Loan Insurance Corporation" by Reorg. Plan No. 3 of 1947, set out in the Appendix to Title 5, Government Organization and Employees, which abolished said board of trustees and transferred its functions to the Home Loan Bank Board.

Subsistence and Travel Expenses

Pub. L. 94-378, title III, § 301, Aug. 9, 1976, 90 Stat. 1108, provided in part that: "Members and alternates of the Federal Savings and Loan Advisory Council shall be entitled to reimbursement from the Board as approved by the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be in lieu of subsistence per diem not to exceed the dollar amount set forth in section 5703(d)(1) of Title 5."

Similar provisions were contained in prior appropriation acts as follows:

Pub. L. 94-110, Title III, § 301, Oct. 17, 1975, 89 Stat. 598.

Sept. 6, 1974, Pub. L. 93-414, title III, § 301, 88 Stat. 1107.

Oct. 26, 1973, Pub. L. 93-137, title III, § 301, 87 Stat. 501.

Aug. 14, 1972, Pub. L. 92-383, title III, § 301, 86 Stat. 551.

Aug. 10, 1971, Pub. L. 92-78, title III, § 301, 85 Stat. 283.

Dec. 17, 1970, Pub. L. 91-556, title IV, § 401, 84 Stat. 1461.

Nov. 26, 1969, Pub. L. 91-126, title III, § 301, 83 Stat. 240.

Oct. 4, 1968, Pub. L. 90-550, title III, § 301, 82 Stat. 954.

Nov. 3, 1967, Pub. L. 90-121, title, II, § 201, 81 Stat. 358.

Sept. 6, 1966, Pub. L. 89-555, title II, § 201, 80 Stat. 685.

Aug. 16, 1965, Pub. L. 89-128, title II, § 201, 79 Stat. 540.

Aug. 30, 1964, Pub. L. 88-507, title II, § 201, 78 Stat. 663.

Dec. 19, 1963, Pub. L. 88-215, title II, § 201, 77 Stat. 444.

Oct. 3, 1962, Pub. L. 87-741, title II, § 201, 76 Stat. 736.

Aug. 17, 1961, Pub. L. 87-141, title II, § 201, 75 Stat. 360.
July 12, 1960, Pub. L. 86-626, title II, § 201, 74 Stat. 441.
Sept. 14, 1959, Pub. L. 86-255, title II, § 201, 73 Stat. 514.
Aug. 28, 1958, Pub. L. 85-844, title II, § 201, 72 Stat. 1077.
June 29, 1957, Pub. L. 85-69, title II, § 201, 71 Stat. 239.
June 27, 1956, ch. 452, title II, § 201, 70 Stat. 352.
June 30, 1955, ch. 244, title II, § 201, 69 Stat. 214.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a Council established by the President or an officer of the Federal Government, such Council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a Council established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1429. Eligibility of members and nonmember borrowers to secure advances

Any member or nonmember borrower of a Federal Home Loan Bank shall be entitled to apply in writing for advances. Such application shall be in such form as shall be required by the Federal Home Loan Bank with the approval of the board. Such Federal Home Loan Bank may at its discretion deny any such application, or, subject to the approval of the board, may grant it on such conditions as the Federal Home Loan Bank may prescribe.

(July 22, 1932, ch. 522, § 9, 47 Stat. 731.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1452 of this title.

§ 1430. Advances

(a) Authorization to make; limitation on amount

Each Federal Home Loan Bank is authorized to make advances to its members upon the security of home mortgages, or obligations of the United States, or obligations fully guaranteed by the United States, subject to such regulations, restrictions, and limitations as the Board may prescribe. Any such advance shall be subject to the following limitations as to amount:

(1) If secured by a mortgage insured under the provisions of title I, title II, title VI, title VIII, or title IX of the National Housing Act [12 U.S.C. 1702 et seq., 1707 et seq., 1736 et seq., 1748 et seq., and 1750 et seq., respectively], the advance may be for an amount not in excess of 90 per centum of the unpaid principal of the mortgage loan.

(2) If secured by a home mortgage given in respect of an amortized home mortgage loan which was for an original term of six years or more, or in cases where shares of stock, which are pledged as security for such loan, mature in a period of six years or more, the advance may be for an amount not in excess of 65 per centum of the unpaid principal of the home mortgage loan; but in no case shall the amount of the advance exceed 60 per centum of the value of the real estate securing the home mortgage loan.

(3) If secured by a home mortgage given in respect of any other home mortgage loan, the advance shall not be for an amount in excess of 50 per centum of the unpaid principal of the home mortgage loan; but in no case shall the amount of such advance exceed 40 per centum of the value of the real estate securing the home mortgage loan.

(4) If secured by obligations of the United States, or obligations fully guaranteed by the United States, the advance shall not be for an amount in excess of the face value of such obligations.

(b) Home mortgages as security

No home mortgages shall be accepted as collateral security for an advance by a Home Loan Bank if, at the time such advance is made (1) the home mortgage loan secured by it has more than thirty years to run to maturity, unless such home mortgage is insured under the National Housing Act, as amended [12 U.S.C. 1701 et seq.], or insured or guaranteed under the Servicemen's Readjustment Act of 1944, as amended, chapter 37 of title 38, or (2) the home mortgage exceeds a sum equal to $55,000 (except that with respect to dwellings in Alaska, Guam, and Hawaii the foregoing limitation may, by regulation of the Board, be increased by not to exceed 50 percent) for each home or other dwelling unit covered by such mortgage, or (3) is past due more than six months when presented, unless the amount of the debt secured by such home mortgage is less than 50 per centum of the value of the real estate with respect to which the home mortgage was given, as such real estate was appraised when the home mortgage was made. For the purposes of this subsection and subsection (a) of this section the value of real estate shall be as of the time the advance is made and shall be established by such certification by the borrowing institution or such other evidence, as the board may require. For the purposes of this section, each Home Loan Bank shall have power to make, or to cause or require to be made, such appraisals and other investigations as it may deem necessary. No home mortgage otherwise eligible to be accepted as collateral security for an advance by a Home Loan Bank shall be accepted if any director, officer, employee, attorney or agent of the Home Loan Bank or of the borrowing institution is personally liable thereon, unless the board has specifically approved by formal resolution such acceptance.

(c) Notes of borrowing members; interest rate; limitation on loans; lien on stock

Such advances shall be made upon the note or obligation of the member or nonmember borrower secured as provided in this section, bearing such rate of interest as the board may approve or determine, and the Federal Home Loan Bank shall have a lien upon and shall hold the stock of such member as further collateral security for all indebtedness of the member to the Federal Home Loan Bank. At no time shall the aggregate outstanding advances made by any Federal Home Loan Bank to any member exceed twelve times the amounts paid in by such member for outstanding capital stock held by it, or made to a nonmember bor-

rower exceed twelve times the value of the security required to be deposited under subsection (e) of section 1426 of this title.

(d) Obligation to repay; additional security; sale of advances to other banks

The institution applying for an advance shall enter into a primary and unconditional obligation to pay off all advances, together with interest and any unpaid costs and expenses in connection therewith according to the terms under which they were made, in such form as shall meet the requirements of the bank and the approval of the board. The bank shall reserve the right to require at any time, when deemed necessary for its protection, deposits of additional collateral security or substitutions of security by the borrowing institution, and each borrowing institution shall assign additional or substituted security when and as so required. Subject to the approval of the board, any Federal Home Loan Bank shall have power to sell to any other Federal Home Loan Bank, with or without recourse, any advance made under the provisions of this chapter, or to allow to such bank a participation therein, and any other Federal Home Loan Bank shall have power to purchase such advance or to accept a participation therein, together with an appropriate assignment of security therefor.

(July 22, 1932, ch. 522, § 10, 47 Stat. 731; Apr. 27, 1934, ch. 168, § 10, 48 Stat. 646; June 27, 1934, ch. 847, § 501, 48 Stat. 1261; May 28, 1935, ch. 150, §§ 5, 6, 49 Stat. 294, 295; Mar. 28, 1941, ch. 31, § 7, 55 Stat. 62; Aug. 1, 1947, ch. 431, 61 Stat. 714; Apr. 20, 1950, ch. 94, title V, § 501, 64 Stat. 80; Sept. 1, 1951, ch. 378, title II, § 208, 65 Stat. 303; Aug. 2, 1954, ch. 649, title V, § 502, 68 Stat. 634; Sept. 2, 1958, Pub. L. 85-857, § 13(e), 72 Stat. 1264; Oct. 9, 1962, Pub. L. 87-779, § 2(b), 76 Stat. 779; Sept. 2, 1964, Pub. L. 88-560, title IX, § 906, 78 Stat. 805; Oct. 18, 1974, Pub. L. 93-449, § 4(c), 88 Stat. 1367.)

REFERENCES IN TEXT

The National Housing Act, as amended, referred to in subsecs. (a) and (b), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified generally to chapter 13 (§ 1701 et seq.) of this title. Titles I, II, VI, VIII, and IX of the National Housing Act are classified to subchapters I [§ 1702 et seq.], II [§ 1707 et seq.], VI [§ 1736 et seq.], VIII [§ 1748 et seq.], and X [§ 1750 et seq.], respectively, of chapter 13 of this title. For complete classification of the Act to the Code, see references in Text note set out under section 1701 of this title and Tables volume.

The Servicemen's Readjustment Act of 1944, as amended, referred to in subsec. (b), was repealed by section 14(87) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1273, the first section of which enacted Title 38, Veterans' Benefits, and is now covered by chapter 37 (§ 1801 et seq.) of Title 38.

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-449 substituted provisions limiting the home mortgage to a sum not to exceed $55,000, except with respect to dwellings in Alaska, Guam, etc., for provisions limiting the home mortgage to a sum not to exceed $40,000.

1964—Subsec. (b). Pub. L. 88-560 substituted "thirty" for "twenty-five" in clause (1) and "$40,000" for "$35,000" in clause (2).

1962—Subsec. (b). Pub. L. 87-779 substituted "exceeds a sum equal to $35,000 for each home or other dwelling unit covered by such mortgage" for "exceeds $35,000".

1958—Subsec. (b). Pub. L. 85-857 inserted "chapter 37 of Title 38," following "Servicemen's Readjustment Act of 1944, as amended,".

1954—Subsec. (b)(2). Act Aug. 2, 1954, substituted "$35,000" for "$20,000".

1951—Subsec. (a)(1). Act Sept. 1, 1951, inserted a reference to subchapter X of chapter 13 of this title.

1950—Subsec. (a) (1). Act Apr. 20, 1950, § 501(1), substituted "subchapters I, II, VI, and VIII of chapter 13 of this title" for "sections 1707-1715b and 1736-1742 of this title".

Subsec. (b). Act Apr. 20, 1950, § 501(2), inserted "unless such home mortgage is insured under the National Housing Act, as amended, or insured or guaranteed under the Servicemen's Readjustment Act of 1944, as amended" following "Maturity" in the first sentence.

1947—Subsec. (b). Act Aug. 1, 1947, increased period collateral security can run from twenty years to twenty-five years.

1941—Subsec. (a)(1). Act Mar. 28, 1941, inserted reference to sections 1736-1742 of this title.

1935—Subsec. (a). Act May 28, 1935, § 5, added cl. (4).

Subsec. (b)(1). Act May 28, 1935, § 6, substituted "twenty" for "fifteen" and omitted reference to value of real estate in cl. 2.

1934—Subsec. (a). Act June 27, 1934, amended subsec. (a) generally.

Subsec. (b). Act Apr. 27, 1934, added the words beginning "unless the amount," etc. to end of first sentence.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment of section by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding Part 1 of Title 38, Veterans' Benefits.

AUTHORIZATION OF APPROPRIATIONS FOR DISBURSEMENT TO FEDERAL HOME LOAN BANKS FOR ADJUSTMENT OF INTEREST CHARGES

Pub. L. 91-351, title I, § 101, July 24, 1970, 84 Stat. 450, provided that:

"(a) There is authorized to be appropriated not to exceed $250,000,000, without fiscal year limitation, to be used by the Federal Home Loan Bank Board for disbursement to Federal home loan banks for the purpose of adjusting the effective interest charged by such banks on short-term and long-term borrowing to promote an orderly flow of funds into residential construction. The disbursement of sums appropriated hereunder shall be made under such terms and conditions as may be prescribed by the Board to assure that such sums are used to assist in the provision of housing for low- and middle-income families, and that such families share fully in the benefits resulting from the disbursement of such sums. No member of a Federal home loan bank shall use funds the interest charges on which have been adjusted pursuant to the provisions of this section to make any loan, if—

"(1) the effective rate of interest on such loan exceeds the effective rate of interest on such funds payable by such member by a percentile amount which is in excess of such amount as the Board determines to be appropriate in furtherance of the purposes of this section; or

"(2) the principal obligation of any such loan which is secured by a mortgage on a residential structure exceeds the dollar limitations on the maximum mortgage amount, in effect on the date the mortgage was originated, which would be applicable if the mortgage was insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act [section 1709(b) or 1713 of this title].

"(b) Not more than 20 per centum of the sums appropriated pursuant to subsection (a) shall be disbursed in any one Federal home loan bank district."

CROSS REFERENCES

National Housing Act, applicability to, see section 1733 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1426, 1431, 1733, 2705 of this title; title 42 section 1591a.

§ 1430a. Omitted

CODIFICATION

Section, act July 22, 1932, ch. 522, § 10a, as added June 27, 1934, ch. 847, § 502, 48 Stat. 1261, prbvided for advances by Federal Home Loan Banks to finance home repairs, improvements, and alterations until July 1, 1936.

§ 1430b. Advances to nonmember mortgagee; terms and conditions

Each Federal Home Loan Bank is authorized to make advances to nonmember mortgagees approved under title II of the National Housing Act [12 U.S.C. 1707 et seq.]. Such mortgagees must be chartered institutions having succession and subject to the inspection and supervision of some governmental agency, and whose principal activity in the mortgage field must consist of lending their own funds. Such advances shall not be subject to the other provisions and restrictions of this chapter, but shall be made upon the security of insured mortgages, insured under title II of the National Housing Act. Advances made under the terms of this section shall be at such rates of interest and upon such terms and conditions as shall be determined by the Federal Home Loan Bank Board, but no advance may be for an amount in excess of 90 per centum of the unpaid principal of the mortgage loan given as security.

(July 22, 1932, ch. 522, § 10b, as added May 25, 1935, ch. 150, § 7, 49 Stat. 295, and amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640.)

REFERENCES IN TEXT

Title II of the National Housing Act, referred to in text, is title II of Act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified generally to subchapter II (§ 1707 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see References in Text note set out under section 1701 of this title and Tables volume.

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955.

"Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" in this section by 1947 Reorg. Plan No. 3. See Transfer of Functions note to section 1422 of this title.

CROSS REFERENCES

National Housing Act, applicability to, see section 1733 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1733, 2705 of this title.

§ 1431. Powers and duties of banks

(a) Borrowing money; issuing bonds and debentures; general powers

Each Federal Home Loan Bank shall have power, subject to rules and regulations prescribed by the board, to borrow and give security therefor and to pay interest thereon, to issue debentures, bonds, or other obligations upon such terms and conditions as the board may approve, and to do all things necessary for carrying out the provisions of this chapter and all things incident thereto.

(b) Issuance of consolidated Federal Home Loan Bank debentures; restrictions

The board may issue consolidated Federal Home Loan Bank debentures which shall be the joint and several obligations of all Federal Home Loan Banks organized and existing under this chapter, in order to provide funds for any such bank or banks, and such debentures shall be issued upon such terms and conditions as the board may prescribe. No such debentures shall be issued at any time if any of the assets of any Federal Home Loan Bank are pledged to secure any debts or subject to any lien, and neither the board nor any Federal Home Loan Bank shall have power to pledge any of the assets of any Federal Home Loan Bank, or voluntarily to permit any lien to attach to the same while any of such debentures so issued are outstanding. The debentures issued under this section and outstanding shall at no time exceed five times the total paid-in capital of all the Federal Home Loan Banks as of the time of the issue of such debentures. It shall be the duty of the board not to issue debentures under this section in excess of the notes or obligations of member institutions held and secured under section 1430(a) of this title by all the Federal Home Loan Banks.

(c) Issuance of Federal Home Loan Bank bonds

At any time that no debentures are outstanding under this chapter, or in order to refund all outstanding consolidated debentures issued under this section, the board may issue consolidated Federal Home Loan Bank bonds which shall be the joint and several obligations of all the Federal Home Loan Banks, and shall be secured and be issued upon such terms and conditions as the board may prescribe.

(d) Additional or substituted collateral on adjustment of equities

The board shall have full power to require any Federal Home Loan Bank to deposit additional collateral or to make substitutions of collateral or to adjust equities between the Federal Home Loan Banks.

(e) Acceptance of deposits; restrictions on transaction of banking business

Each Federal Home Loan Bank shall have power to accept deposits made by members of such bank or by any other Federal Home Loan Bank or other instrumentality of the United States, upon such terms and conditions as the board may prescribe, but no Federal Home Loan Bank shall transact any banking or other business not authorized by this chapter.

(f) Rediscount of notes held by other banks; purchase of bonds of other banks

The board is authorized and empowered to permit, or whenever in the judgment of at least four members of the board an emergency exists requiring such action, to require, Federal Home Loan Banks, upon such terms and conditions as the board may prescribe, to rediscount the discounted notes of members held by other Federal Home Loan Banks, or to make loans to, or

make deposits with, such other Federal Home Loan Banks, or to purchase any bonds or debentures issued under this section.

(g) Reserves

Each Federal Home Loan Bank shall at all times have at least an amount equal to the current deposits received from its members invested in (1) obligations of the United States, (2) deposits in banks or trust companies, (3) advances with a maturity of not to exceed five years which are made to members or nonmember borrowers, upon such terms and conditions as the Board may prescribe, and (4) advances with a maturity of not to exceed five years which are made to members or nonmember borrowers whose creditor liabilities (not including advances from the Federal home loan bank) do not exceed 5 per centum of their net assets, and which may be made without the security of home mortgages or other security, upon such terms and conditions as the Board may prescribe.

(h) Investment of surplus funds

Such part of the assets of each Federal Home Loan Bank (except reserves and amounts provided for in subsection (g) of this section) as are not required for advances to members or nonmember borrowers, may be invested, to such extent as the bank may deem desirable and subject to such regulations, restrictions, and limitations as may be prescribed by the board, in obligations of the United States, in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association, in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or section 1455 of this title, in the stock of the Federal National Mortgage Association, and in such securities as fiduciary and trust funds may be invested in under the laws of the State in which the Federal Home Loan Bank is located.

(i) Treasury purchase of banks' obligations; exercise of authority

The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued pursuant to this section, as heretofore, now, or hereafter in force and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public-debt transactions of the United States. The Secretary of the Treasury shall not at any time purchase any obligations under this paragraph if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this paragraph to an amount greater than $4,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon terms and conditions as shall be determined by the Secretary of the Treasury and shall bear such rate of interest as may be determined by the Secretary of the Treasury taking into consideration the current average market yield for the month preceding the month of such purchase on outstanding marketable obligations of the United States.

In addition to obligations authorized to be purchased by the preceding paragraph, the Secretary of the Treasury is authorized to purchase any obligations issued pursuant to this section in amounts not to exceed $2,000,000,000. The authority provided in this paragraph shall expire August 10, 1975.

Notwithstanding the foregoing, the authority provided in this subsection may be exercised during any calendar quarter beginning after October 28, 1974, only if the Secretary of the Treasury and the Chairman of the Federal Home Loan Bank Board certify to the Congress that (1) alternative means cannot be effectively employed to permit members of the Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market, and (2) the ability to supply such funds is substantially impaired because of monetary stringency and a high level of interest rates. Any funds borrowed under this subsection shall be repaid by the Home Loan Banks at the earliest practicable date.

(j) Audits

Notwithstanding the provisions of the first sentence of section 857 of title 31, audits by the General Accounting Office of the financial transactions of a Federal Home Loan Bank shall not be limited to periods during which Government capital has been invested therein. The provisions of the first sentence of subsection (d) of section 868 of title 31, shall not apply to any Federal Home Loan Bank.

(July 22, 1932, ch. 522, § 11, 47 Stat. 733; June 27, 1934, ch. 847, § 503, 48 Stat. 1261; June 27, 1950, ch. 369, §§ 3, 4, 64 Stat. 257; Aug. 2, 1954, ch. 649, title II, § 204(a), 68 Stat. 622; Sept. 2, 1964, Pub. L. 88-560, title VII, § 701(d)(1), 78 Stat. 800; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 807(k), 82 Stat. 545; Dec. 23, 1969, Pub. L. 91-151, title I, § 3, 83 Stat. 374; Dec. 31, 1970, Pub. L. 91-609, title IX, § 914, 84 Stat. 1815; Aug. 22, 1974, Pub. L. 93-383, title VIII, § 805(c)(2), 88 Stat. 727; Oct. 28, 1974, Pub. L. 93-495, title I, § 112, 88 Stat. 1506.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (i), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this act to the Code, see References in Text note out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1974—Subsec. (h). Pub. L. 93-383 added reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title.

Subsec. (i). Pub. L. 93-495 substituted "obligations under this paragraph" for "obligations under this subsection" wherever appearing in the fourth sentence of the initial par., in the second par. substituted provi-

sions authorizing purchase of obligations issued pursuant to this section in amounts not to exceed $2,000,000,000, for provisions relating to exercise of authority of this subsection by the Secretary of the Treasury, and added the third par.

1970—Subsec. (g). Pub. L. 91-609 substituted "five years" for "one year" in items (3) and (4).

1969—Subsec. (i). Pub. L. 91-151 increased the borrowing limit to $4,000,000,000 and made it a requirement that the rate charged on such borrowing be set at the current market yield on Treasury obligations and added a new paragraph which allows the Secretary to permit members of the Home Loan Bank System to continue to supply funds to the mortgage market during tight market conditions.

1968—Subsec. (h). Pub. L. 90-448 inserted words "or the Government National Mortgage Association, in the stock of the Federal National Mortgage Association".

1964—Subsec. (h). Pub. L. 88-560 substituted "in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association" for "in obligations of the Federal National Mortgage Association".

1954—Subsec. (h). Act Aug. 2, 1954, inserted the reference to obligations of the Federal National Mortgage Association.

1950—Subsec. (g). Act June 27, 1950, § 3, eliminated the requirement that sums paid in on outstanding capital subscriptions of members from the base for determining the amount of money which the Federal Home Loan Banks shall at all times have invested.

Subsecs. (i) and (j). Act June 27, 1950, § 4, added subsecs. (i) and (j).

1934—Subsecs. (i) and (j). Act June 27, 1934, among other changes, deleted subsecs. (i) and (j).

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

TRANSFER OF FUNCTIONS

Requirements of subsec. (f) of this section for action by at least four members of the Board appear to be obsolete, since under section 1422 of this title as affected by Reorg. Plan No. 3 of 1947, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, and act Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640, "Board" means the Federal Home Loan Bank Board which was created by that Reorganization Plan and which is composed of only three members.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1438, 1439, 2705 of this title.

§ 1432. Incorporation of banks; corporate powers; housing project loans

(a) The directors of each Federal Home Loan Bank shall, in accordance with such rules and regulations as the board may prescribe, make and file with the board at the earliest practicable date after the establishment of such bank, an organization certificate which shall contain such information as the board may require. Upon the making and filing of such organization certificate with the board, such bank shall become, as of the date of the execution of its organization certificate, a body corporate, and as such and in its name as designated by the board it shall have power to adopt, alter, and use a corporate seal; to make contracts; to purchase or lease and hold or dispose of such real estate as may be necessary or convenient for the transaction of its business, but, except with the prior approval of the board, no bank building shall be bought or erected to house any such bank, or leased by such bank under any lease for such purpose which has a term of more than ten years; to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal; to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of its business, subject to the approval of the board; to define their duties, require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys, and agents; and, by its board of directors, to prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which its affairs may be administered; and the powers granted to it by law may be exercised and enjoyed[1] subject to the approval of the board. The president of a Federal Home Loan Bank may also be a member of the board of directors thereof, but no other officer, employee, attorney, or agent of such bank, who receives compensation, may be a member of the board of directors. Each such bank shall have all such incidental powers, not inconsistent with the provisions of this chapter, as are customary and usual in corporations generally.

(b) Subject to such regulations as may be prescribed by the Board, one or more Federal home loans[2] banks may acquire, hold, or dispose of, in whole or in part, or facilitate such acquisition, holding, or disposition by members of any such bank of, housing project loans, or interests therein, having the benefit of any guaranty under section 2181 of title 22, as now or hereafter in effect, or loans, or interests therein, having the benefit of any guaranty under section 2184 of title 22 or any commitment or agreement with respect to such loans, or interests therein, made pursuant to either of such sections. This authority extends to the acquisition, holding, and disposition of loans, or interests therein, having the benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty.

(July 22, 1932, ch. 522, § 12, 47 Stat. 735; Nov. 3, 1966, Pub. L. 89-754, title X, § 1016(a), 80 Stat. 1293; Aug. 1, 1968, Pub. L. 90-448, title XVII, § 1717, 82 Stat. 609; Dec. 31, 1970, Pub. L. 91-609, title IX, § 907(a), 84 Stat. 1811.)

REFERENCES IN TEXT

Section 2184 of title 22, referred to in subsec. (b), which related to housing projects in Latin American countries, were eliminated in the general amendment made by section 105 of Pub. L. 91-175, and is now covered by section 2182 of title 22.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-609 extended authority to make housing project loans to acquisition, holding, and disposition of loans, or interest therein, having benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty.

1968—Pub. L. 90-448 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89-754 substituted "but, except with the prior approval of the board, no bank building shall

[1] So in original, probably should be "employed".

[2] So in original.

be bought or erected to house any such bank, or leased by such bank under any lease" for "but no bank building shall be bought or erected to house any such bank, nor shall any such bank make any lease" in the second sentence.

CROSS REFERENCES

Punishment for use of words "Federal Home Loan Bank", see section 709 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1427 of this title.

§ 1433. Exemption from taxation; obligations acceptable as credit on debt of home owner

Any and all notes, debentures, bonds, and other such obligations issued by any bank, and consolidated Federal Home Loan Bank bonds and debentures, shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. The bank, including its franchise, its capital, reserves, and surplus, its advances, and its income, shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that in[1] any real property of the bank shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The notes, debentures, and bonds issued by any bank, with unearned coupons attached, shall be accepted at par by such bank in payment of or as a credit against the obligation of any home-owner debtor of such bank.

(July 22, 1932, ch. 522, § 13, 47 Stat. 735; May 28, 1935, ch. 150, § 8, 49 Stat. 295.)

AMENDMENTS

1935—Act May 28, 1935, inserted "and consolidated Federal Home Loan Bank bonds and debentures", in first sentence.

CROSS REFERENCES

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

§ 1434. Depositaries of public money; financial agents

When designated for that purpose by the Secretary of the Treasury, each Federal Home Loan Bank shall be a depositary of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also be employed as a financial agent of the Government; and it shall perform all such reasonable duties as depositary of public money and financial agent of the Government as may be required of it.

(July 22, 1932, ch. 522, § 14, 47 Stat. 736.)

[1] So in original. Word "in" probably should be omitted.

§ 1435. Obligations as lawful investments; liability of United States for debentures, etc., issued by banks

Obligations of the Federal Home Loan Banks issued with the approval of the board under this chapter shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. The Federal reserve banks are authorized to act as depositaries, custodians, and/or fiscal agents for Federal Home Loan Banks in the general performance of their powers under this chapter. All obligations of Federal Home Loan Banks shall plainly state that such obligations are not obligations of the United States and are not guaranteed by the United States.

(July 22, 1932, ch. 522, § 15, 47 Stat. 736.)

§ 1436. Reserves and dividends

Each Federal Home Loan Bank shall carry to a reserve account semiannually 20 per centum of its net earnings until said reserve account shall show a credit balance equal to 100 per centum of the paid-in capital of such bank. After said reserve has reached 100 per centum of the paid-in capital of said bank, 5 per centum of its net earnings shall be added thereto semiannually. Whenever said reserve shall have been impaired below 100 per centum of the paid-in capital it shall be restored before any dividends are paid. Each Federal Home Loan Bank shall establish such additional reserves and/or make such charge-offs on account of depreciation or impairment of its assets as the board shall require from time to time. No dividends shall be paid except out of net earnings remaining after all reserves and charge-offs required under this chapter have been provided for, and then only with the approval of the board. The reserves of each Federal Home Loan Bank shall be invested, subject to such regulations, restrictions, and limitations as may be prescribed by the board, in direct obligations of the United States, in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association, in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or section 1455 of this title, and in such securities as fiduciary and trust funds may be invested in under the laws of the State in which the Federal Home Loan Bank is located.

(July 22, 1932, ch. 522, § 16, 47 Stat. 736; Aug. 2, 1954, ch. 649, title II, § 204(a), 68 Stat. 622; Sept. 2, 1964, Pub. L. 88-560, title VII, § 701(d)(2), 78 Stat. 800; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 807(*l*), 82 Stat. 545; Aug. 22, 1974, Pub. L. 93-383, title VIII, § 805(c)(3), 88 Stat. 727.)

AMENDMENTS

1974—Pub. L. 93-383 added reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or section 1455 of this title.

1968—Pub. L. 90-448 authorized investments in obligations, participations, or other instruments issued by the Government National Mortgage Association.

1964—Pub. L. 88-560 substituted "in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association" for "in obligations of the Federal National Mortgage Association".

1954—Act Aug. 2, 1954, inserted the reference to obligations of the Federal National Mortgage Association in last sentence.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1438 of this title.

§ 1437. Federal Home Loan Bank Board; powers and duties; independent agency; report to Congress

(a) The board shall supervise the Federal Home Loan Banks created by this chapter, shall perform the other duties specifically prescribed by this chapter, and shall have power to adopt, amend, and require the observance of such rules, regulations, and orders as shall be necessary from time to time for carrying out the purposes of the provisions of this chapter. The board shall have power to suspend or remove any director, officer, employee, or agent of any Federal Home Loan Bank, the cause of such suspension or removal to be communicated in writing forthwith to such director, officer, employee, or agent, and to such Federal Home Loan Bank.

(b) The Home Loan Bank Board which was, pursuant to Reorganization Plan Numbered 3 of 1947, established and made a constituent agency of the Housing and Home Finance Agency shall, from August 11, 1955, cease to be such a constituent agency and shall be an independent agency (including the Federal Savings and Loan Insurance Corporation) in the executive branch of the Government: *Provided*, That the functions vested in the Chairman of said board under clause (2) of the last sentence of subsection (b) of section 2 of said reorganization plan are transferred to said board. Notwithstanding any other provision of law, said board, the Chairman thereof except as herein otherwise provided, and the Federal Savings and Loan Insurance Corporation, respectively, shall have and may exercise all functions which they respectively had or could exercise, immediately prior to August 24, 1954, or immediately prior to June 24, 1954. Said board shall annually make a report of its operations (including those of the Federal Savings and Loan Insurance Corporation) to the Congress as soon as practicable after the first day of January in each year. The name of the Home Loan Bank Board is changed to "Federal Home Loan Bank Board."

(July 22, 1932, ch. 522, § 17, 47 Stat. 736; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640.)

REFERENCES IN TEXT

Reorganization Plan Numbered 3 of 1947, referred to in subsec. (b), is set out in the Appendix to Title 5, Government Organization and Employees.

Clause (2) of the last sentence of subsection (b) of section 2 of said reorganization plan, referred to in subsec. (b), means Reorganization Plan Numbered 3 of 1947, § 2(b)(2), which is set out in a note under this section.

AMENDMENTS

1955—Act Aug. 11, 1955, designated existing provisions as subsec. (a), and added subsec. (b).

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955.

TRANSFER OF FUNCTIONS

All of subsec. (a) of this section except the last two sentences was omitted on authority of 1947 Reorg. Plan No. 3, set out in the Appendix to Title 5, Government Organization and Employees, which abolished the Federal Home Loan Bank Board created by such omitted part of this section, and transferred its functions to the Home Loan Bank Board created by said plan. Said Reorganization Plan also transferred the functions of the Federal Loan Administrator with respect to the Federal Home Loan Bank Board and its functions to the Housing and Home Finance Administrator.

Federal Home Loan Bank Board to be administered by Federal Loan Administrator within the Federal Loan Agency, see Reorg. Plan No. I of 1939, § 402, eff. July 1, 1939, 4 F.R. 2730, 53 Stat. 1429, set out in the Appendix to Title 5, Government Organization and Employees.

HOME LOAN BANK BOARD

1947 Reorg. Plan No. 3, § 2, provided that:

"(a) Composition of Board; appointment, tenure, and compensation. The Home Loan Bank Board shall consist of three members appointed by the President by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party. The President shall designate the members of the Board first appointed hereunder to serve for terms expiring, respectively, at the close of business on June 30, 1949, June 30, 1950, and June 30, 1951, and thereafter the term of each member shall be four years. Whenever a vacancy shall occur among the members the person appointed to fill such vacancy shall hold office for the unexpired portion of the term of the member whose place he is selected to fill. Each of the members of the Board shall receive compensation at the rate of $10,000 per annum.

"(b) Appointment of chairman; duties. The President shall designate one of the members of the Home Loan Bank Board as Chairman of the Board. The Chairman shall (1) be the chief executive officer of the Board, (2) appoint and direct the personnel necessary for the performance of the functions of the Board or of the Chairman or of any agency under the Board, and (3) designate the order in which the other members of the Board shall, during the absence or disability of the Chairman, be Acting Chairman and perform the duties of the Chairman.

"(c) Functions transferred to Board. Except as otherwise provided in subsection (b) of this section there are transferred to the Home Loan Bank Board the functions (1) of the Federal Home Loan Bank Board, (2) of the Board of Directors of the Home Owners' Loan Corporation, (3) of the Board of Trustees of the Federal Savings and Loan Insurance Corporation, (4) of any member or members of any of said Board, and (5) with respect to the dissolution of the United States Housing Corporation."

COMPENSATION OF MEMBERS OF FEDERAL HOME LOAN BANK BOARD

Compensation of Chairman and members, see sections 5314 and 5315 of Title 5, Government Organization and Employees.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Federal Home Loan Bank Board, see Parts 1, 17, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

IMPAIRMENT OR LIMITATION OF FUNCTIONS OR AUTHORITIES OF FEDERAL HOME LOAN BANK BOARD, CHAIRMAN THEREOF, OR FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Pub. L. 90-19, § 28, May 25, 1967, 81 Stat. 29, provided that: "Any function or authority vested in or exercisable by the Federal Home Loan Bank Board, the Chairman thereof, or the Federal Savings and Loan Insurance Corporation immediately before the enactment of this Act shall not by this section or anything therein be affected or impaired, or subjected to any restriction or limitation to which it was not then subject."

CROSS REFERENCES

Additional powers and duties of the Board, see section 1701c of this title.

Enforcement by the Federal Home Loan Bank Board of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, in the case of institutions subject to this section, see section 1607 of Title 15.

Independence of financial regulatory agencies with respect to submission of views to Congress, see section 250 of this title.

REORGANIZATION PLAN NO. 6 OF 1961

Eff. Aug. 12, 1961, 26 F.R. 7541, 75 Stat. 838.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 12, 1961, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of Title 5, Government Organization and Employees].

Federal Home Loan Bank Board

SECTION 1. *Transfer of functions.*—Subject to the provisions of section 2(a) of this reorganization plan, and to the extent not vested in the Chairman of the Federal Home Loan Bank Board (hereinafter referred to as the Chairman) in the absence of this reorganization plan, the executive and administrative functions of the Federal Home Loan Bank Board (hereinafter referred to as the Board), including the following-described functions of the Board, are hereby transferred from the Board to the Chairman:

(1) The appointment and removal of personnel employed under the Board.

(2) The distribution of business among such personnel and among administrative units of the Board.

(3) The direction of personnel who perform, or who supervise the performance of, any function of the Board or of the Chairman or of any agency under the Board.

(4) The communication to personnel employed under the Board of applicable Board policies to be followed by such personnel in the performance of their work and the subsequent enforcement of such policies.

(5) The overall management, functioning, and organization of the Board, including (a) the formulation and implementation of plans and policies designed to increase the effectiveness of the Board in the administration of the laws it is charged with administering and the intiation of ways and means of correcting or preventing avoidable delays in the performance of any work or the disposition of any business before the Board and (b) the development and improvement of staff support to carry out the functions of the Board.

(6) The preparation, review, and presentation to the Bureau of the Budget of the budget estimates of and other fund authorizations for the Board and the explanation and justification before the appropriate committees of the Congress of the budget estimates for the Board transmitted to the Congress by the President and of other fund authorizations placed before the Congress.

(7) The allocation, use, and expenditure of funds available to the Board for administrative expense purposes.

(8) The calling of the Board into special session whenever any matter or business of the Board so requires, but in any event for the consideration of any matter or business upon request of one or both of the other members of the Board.

SEC. 2. *Performance of transferred functions.*—(a)(1) In carrying out any of his functions under the provisions of section 1 hereof the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Board shall be subject to the approval of the Board.

(3) Personnel employed regularly and full time in the immediate offices of Board members other than the Chairman shall not be affected by the provisions of this reorganization plan.

(b) The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan or of any function vested in the Chairman in consequence of his status as the chief executive officer of the Board.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1427, 1715z-9, 2804 of this title; title 15 sections 1607, 1681s, 1691c.

§ 1438. Administrative expenses

(a) Omitted

(b) Assessments on banks

The board shall have power to levy semiannually upon the Federal Home Loan Banks, and they shall pay, on such equitable basis as the board shall determine, an assessment sufficient in its judgment to provide for the payment of its estimated expenses for the half year succeeding the levying of each such assessment, beginning with the second half of the calendar year 1933. All expenses of the board incurred in carrying out the provisions of this chapter, as determined by it, beginning July 1, 1933, shall be paid from the proceeds of such assessments, and if any deficiency shall occur in such fund at any time between such semiannual assessments the board shall have power to make an immediate assessment against the banks to cover such deficiency on the same basis as the original assessment. If any surplus shall remain from any assessment after the expiration of the semiannual period for which it was levied, such surplus may be deducted from the next following assessment. Such assessments may include such amounts as the board may deem advisable for carrying out the provisions of subsection (c) of this section.

(c) Quarters and facilities for Federal Home Loan Bank Board and Banks; advances of funds; obligations of United States; legal investments; approval of plans and designs; custody, management, and control; receipts of the Board; expense exclusions; property defined; budget preparation program; audit; zoning regulations; delegation of functions; limitation on obligations

(1) The board, utilizing the services of the Administrator of General Services (hereinafter referred to as the "Administrator"), and subject to any limitation hereon which may hereafter be imposed in appropriation Acts, is hereby authorized—

(A) to acquire, in the name of the United States, real property in the District of Columbia, for the purposes set forth in this subsection;

(B) to construct, develop, furnish, and equip such buildings thereon and such facilities as in its judgment may be appropriate to provide, to such extent as the board may deem advisable, suitable and adequate quarters and facilities for the board and the agencies under its administration or supervision;

(C) to enlarge, remodel, or reconstruct any of the same; and

(D) to make or enter into contracts for any of the foregoing.

(2) The board may require of the respective banks, and they shall make to the board, such advances of funds for the purposes set out in paragraph (1) as in the sole judgment of the board may from time to time be advisable. Such advances shall be in addition to the assessments authorized in subsection (b) of this section and shall be apportioned by the board among the banks in proportion to the total assets of the respective banks, determined in such manner and as of such times as the board may prescribe. Each such advance shall bear interest at the rate of 4½ per centum per annum from the date of the advance and shall be repaid by the board in such installments and over such period, not longer than twenty-five years from the making of the advance, as the board may determine. Payments of interest and principal upon such advances shall be made from receipts of the board or from other sources which may from time to time be available to the board. The obligation of the board to make any such payment shall not be regarded as an obligation of the United States. To such extent as the board may prescribe any such obligation shall be regarded as a legal investment for the purposes of subsections (g) and (h) of section 1431 of this title and for the purposes of section 1436 of this title.

(3) The plans and designs for such buildings and facilities and for any such enlargement, remodeling, or reconstruction shall, to such extent as the chairman of the board may request, be subject to his approval.

(4) Upon the making of arrangements mutually agreeable to the board and the Administrator, which arrangements may be modified from time to time by mutual agreement between them and may include but shall not be limited to the making of payments by the board and such agencies to the Administrator and by the Administrator to the board, the custody, management, and control of such buildings and facilities and of such real property shall be vested in the Administrator in accordance therewith. Until the making of such arrangements such custody, management, and control, including the assignment and allotment and the reassignment and reallotment of building and other space, shall be vested in the board.

(5) Any proceeds (including advances) received by the board in connection with this subsection, and any proceeds from the sale or other disposition of real or other property acquired by the board under this subsection, shall be considered as receipts of the board, and obligations and expenditures of the board and such agencies in connection with this subsection shall not be considered as administrative expenses. As used in this subsection, the term "property" shall include interests in property.

(6) With respect to its functions under this subsection the board shall (A) annually prepare and submit a budget program as provided in title I of the Government Corporation Control Act [31 U.S.C. 846 et seq.] with regard to wholly owned Government corporations, and for purposes of this sentence, the terms "wholly owned Government corporations" and "Government corporations," wherever used in such title, shall include the board, and (B) maintain an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions as provided in such title, and no other audit, settlement, or adjustment shall be required with respect to transactions under this subsection or with respect to claims, demands, or accounts by or against any person arising thereunder. The first budget program shall be for the first full fiscal year beginning on or after the date of the enactment of this subsection, and the first audit shall be for the remainder of the fiscal year in which this subsection is enacted. Except as otherwise provided in this subsection or by the board, the provisions of this subsection and the functions thereby or thereunder subsisting shall be applicable and exercisable notwithstanding and without regard to the Act of June 20, 1938 (D.C. Code, secs. 5-413 to 5-428), except that the proviso of section 16 thereof shall apply to any building constructed under this subsection, and section 129 of title 40, or any other provision of law relating to the construction, alteration, repair, or furnishing of public or other buildings or structures or the obtaining of sites therefor, but any person or body in whom any such function is vested may provide for delegation or redelegation of the exercise of such function.

(7) No obligation shall be incurred and no expenditure, except in liquidation of obligation, shall be made pursuant to the first two subparagraphs of paragraph (1) of this subsection if the total amount of all obligations incurred pursuant thereto would thereupon exceed $13,200,000, or such greater amount as may be provided in an appropriation Act or other law.

(July 22, 1932, ch. 522, § 18, 47 Stat. 737; Nov. 3, 1966, Pub. L. 89-754, title X, § 1016(b), 80 Stat. 1293.)

REFERENCES IN TEXT

Title I of the Government Corporation Control Act, referred to in subsec. (c)(6), is classified to subchapter II [§ 846 et seq.] of chapter 14 of Title 31, Money and Finance.

Date of the enactment of this subsection and fiscal year in which this subsection is enacted, referred to in subsec. (c)(6), mean Nov. 3, 1966, the date of enactment of Pub. L. 89-754, and fiscal year 1967, respectively.

Section 16 of the Act of June 20, 1938, referred to in subsec. (c)(6), is classified to D.C. Code, § 5-428, and requires in the proviso approval of the National Capital Planning Commission for zoning and height of Federal public buildings in the District of Columbia.

CODIFICATION

Former subsec. (a) authorized appropriation of $300,000 for all necessary expenses of the board, together with expenses preliminary to organization and establishment of the banks created hereunder, until the end of the fiscal year 1933.

AMENDMENTS

1966—Subsec. (b). Pub. L. 89-754, § 1016(b)(1), provided that assessments may include such amounts as the board may deem advisable for carrying out the provisions of subsec. (c) of this section.

Subsec. (c). Pub. L. 89-754, § 1016(b)(2), added subsec. (c).

CROSS REFERENCES

Assessments from Federal home-loan banks to be covered into the treasury and expenses of Federal Home Loan Bank Board to be paid from appropriations, see section 725j of Title 31, Money and Finance.

Deposit of funds with Treasurer of the United States and a special deposit account and availability for expenditure, see section 1439a of this title.

§ 1438a. Nonadministrative expenses; expenses of studies and investigations

On and after July 12, 1960, expenses of the Board in making studies or investigations specifically directed by law, or requested by the Congress or either House thereof or by a committee of either House, including services authorized by section 3109 of title 5, shall be considered as nonadministrative expenses.

(Pub. L. 86-626, title II, § 201, July 12, 1960, 74 Stat. 441.)

CODIFICATION

"Section 3109 of title 5" was substituted for "section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§ 1439. Officers and employees; appointment; compensation

The Board shall have power to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this chapter. The Board shall be entitled to the free use of the United States mails for its official business in the same manner as the executive departments of the Government; and shall determine its necessary expenditures under this chapter and the manner in which they shall be incurred, allowed, and paid. The receipts of the Board derived from assessments upon the Federal Home Loan Banks and from other sources (except receipts from the sale of consolidated Federal Home Loan Bank bonds and debentures issued under section 1431 of this title) shall be deposited in the Treasury of the United States, and may be from time to time withdrawn therefrom to defray the expenses of the Board, and the salaries of its members and employees. All necessary expenses in connection with the making of supervisory or other examinations (except examinations of Federal Home Loan Banks), including the provision of services and facilities therefor, shall be considered as nonadministrative expenses.

(July 22, 1932, ch. 522, § 19, 47 Stat. 737; May 28, 1935, ch. 150, § 9, 49 Stat. 295; July 3, 1948, ch. 825, § 2, 62 Stat. 1240.)

CODIFICATION

Provisions of first sentence that authorized the Board to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties "without regard to the provisions of other laws applicable to the employment or compensation of officers, employees, attorneys, and agents of the United States", and second sentence providing that no such officer, employee, attorney, or agent shall be paid compensation in excess of the rate provided in the case of members of the board, were omitted as obsolete and superseded.

Such selection and employment are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees. As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

AMENDMENTS

1948—Act July 3, 1948, added last sentence to make the expenses of supervisory and other examinations nonadministrative expenses.

1935—Act May 28, 1935, added next to last sentence.

CROSS REFERENCES

Assessments from Federal home-loan banks to be covered into the treasury and expenses of Federal Home Loan Bank Board to be paid from appropriations, see section 725j of Title 31, Money and Finance.

Deposit of funds with Treasurer of the United States and a special deposit account and availability for expenditures, see section 1439a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1439a of this title.

§ 1439a. Deposits in special fund; availability for all purposes of Federal Home Loan Bank Board and Federal Home Loan Bank Administration

All moneys and funds heretofore deposited in the Treasury of the United States under the last sentence of section 1439 of this title (in-

cluding unexpended balances of moneys appropriated therefrom for administrative expenses), and hereafter all moneys and funds which would, except for this provision, be so depositable thereunder, shall be deposited with the Treasurer of the United States in a special deposit account and shall be available, retroactively as well as prospectively, for expenditure for all purposes of the Federal Home Loan Bank Board and the Federal Home Loan Bank Administration, subject to subsections (a) and (b) of section 712a of title 15.

(June 26, 1943, ch. 145, title I, § 101, 57 Stat. 186; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640.)

REFERENCES IN TEXT

Last sentence of section 1439 of this title, referred to in the text, constituted the last sentence of section 1439 prior to its amendment by act July 3, 1948, ch. 825, § 2, 62 Stat. 1240. The text thereof relating to deposits in and withdrawals from the Treasury of the United States is set out as the fourth sentence of section 1439 of this title.

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955.

"Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" in this section by Reorg. Plan No. 3 of 1947. See note to section 1422 of this title.

TRANSFER OF FUNCTIONS

For transfer of functions to the Secretary of the Treasury, see note under section 121 of this title.

§ 1440. Examinations of banks; powers of examiners

The board shall from time to time, at least annually, require examinations and reports of condition of all Federal Home Loan Banks in such form as the board shall prescribe and shall furnish periodically statements based upon the reports of the banks to the board. For the purposes of this chapter, examiners appointed by the board shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act [12 U.S.C. 21 et seq.] and the Federal Reserve Act [12 U.S.C. 221 et seq.], and shall have, in the exercise of functions under this chapter, the same powers and privileges as are vested in such examiners by law.

(July 22, 1932, ch. 522, § 20, 47 Stat. 738; June 27, 1950, ch. 369, § 10, 64 Stat. 259; Aug. 2, 1954, ch. 649, title VIII, § 802(f), 68 Stat. 643.)

REFERENCES IN TEXT

The National Bank Act, referred to in text, which is classified generally to chapter 2 (§ 21 et seq.) of this title, is act June 3, 1864, ch. 106, 13 Stat. 99. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

The Federal Reserve Act, referred to in text, which is classified generally to chapter 3 (§ 221 et seq.) of this title, is act Dec. 23, 1913, ch. 6, 38 Stat. 251. For complete classification of this Act to the Code, see Distribution note set out under section 226 of this title.

AMENDMENTS

1954—Act Aug. 2, 1954, struck out the second sentence relating to annual report of the board to Congress, which provision is now covered by section 1437 (b) of this title.

1950—Act June 27, 1950, struck out "twice" preceding "annually".

§ 1441. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, act July 22, 1932, ch. 522, § 21, 47 Stat. 738, related to unlawful acts and penalties and is covered by sections 433, 493, 657, 659, 660, 709, 1006, 1014, and 2117 of Title 18, Crimes and Criminal Procedure.

§ 1442. Reports, records, etc., of Treasury Department, Comptroller of the Currency, Board of Governors of Federal Reserve System; access to; consent to examination by applicants for advances

(a) In order to enable the board to carry out the provisions of this chapter, the Treasury Department, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal reserve banks are authorized, under such conditions as they may prescribe, to make available to the board in confidence for its use and the use of any Federal Home Loan Bank such reports, records, or other information as may be available, relating to the condition of institutions with respect to which any such Federal Home Loan Bank has had or contemplates having transactions under this chapter or relating to persons whose obligations are offered to or held by any Federal Home Loan Bank, and to make through their examiners or other employees, for the confidential use of the board or any Federal Home Loan Bank, examinations of such institutions.

(b) Every institution which shall apply for advances under this chapter shall, as a condition precedent thereto, consent to such examination as the bank or the board may require for the purposes of this chapter and/or that reports of examinations by constituted authorities may be furnished by such authorities to the bank or the board upon request therefor.

(July 22, 1932, ch. 522, § 22, 47 Stat. 739; Aug. 23, 1935, ch. 614, § 203(a), 49 Stat. 704.)

CHANGE OF NAME

Act Aug. 23, 1935, changed the name of the Federal Reserve Board to Board of Governors of the Federal Reserve System.

EXCEPTION FROM TRANSFER OF FUNCTIONS

Functions vested by any provision of law in the Comptroller of the Currency, referred to in this section, not included in the transfer of functions to the Secretary of the Treasury, see note set out under section 1 of this title.

§ 1443. Forms of stock, debentures, etc.; preparation by Secretary of Treasury; expenses

In order that the Federal Home Loan Banks may be supplied with such forms of stock, debentures, and bonds as may be necessary under this chapter, the Secretary of the Treasury is authorized to prepare such forms thereof as shall be suitable and approved by the board, which shall be held in the Treasury subject to delivery, upon order of the board. The engraved plates, dies, and bed pieces executed in connec-

tion therewith shall remain in the custody of the Secretary of the Treasury. The board shall reimburse the Secretary of the Treasury for any expense incurred in the preparation, custody, and delivery of such stock, debentures, and bonds.

(July 22, 1932, ch. 522, § 23, 47 Stat. 739.)

§ 1444. Eligibility to membership in banks

(a) Any organization organized under the laws of any State and subject to inspection and regulation under the banking or similar laws of such State shall be eligible to become a member under this chapter if—

(1) it is organized solely for the purpose of supplying credit to its members;

(2) its membership (A) is confined exclusively to building and loan associations, savings and loan associations, cooperative banks, and homestead associations; or (B) is confined exclusively to savings banks; and

(3) of the institutions to which its membership is confined which are organized within the State, its membership includes a majority of such institutions.

(b) In all respects, but subject to such additional rules and regulations as the board may provide, any such organization shall be a member for the purposes of this chapter.

(July 22, 1932, ch. 522, § 24, 47 Stat. 739.)

§ 1445. Succession of Federal Home Loan Banks

Each Federal Home Loan Bank shall have succession until dissolved by the board under this chapter or by further act of Congress.

(July 22, 1932, ch. 522, § 25, 47 Stat. 740.)

§ 1446. Liquidation or reorganization; acquisition of assets by other banks; assumption of liabilities

Whenever the board finds that the efficient and economical accomplishment of the purposes of this chapter will be aided by such action, and in accordance with such rules, regulations, and orders as the board may prescribe, any Federal Home Loan Bank may be liquidated or reorganized, and its stock paid off and retired in whole or in part in connection therewith after paying or making provision for the payment of its liabilities. In the case of any such liquidation or reorganization, any other Federal Home Loan Bank may, with the approval of the board, acquire assets of any such liquidated or reorganized bank and assume liabilities thereof, in whole or in part.

(July 22, 1932, ch. 522, § 26, 47 Stat. 740.)

§ 1447. Institutions authorized to subscribe for stock of banks

Any institution, except a national bank, trust company, or other banking organization organized under any law of the United States, including the laws relating to the District of Columbia, shall be authorized to subscribe for stock of a Federal Home Loan Bank if otherwise eligible to make such subscription under the terms of this chapter, any provision in any such law to the contrary notwithstanding.

(July 22, 1932, ch. 522, § 27, 47 Stat. 740.)

§ 1448. Effect of partial invalidity of chapter

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(July 22, 1932, ch. 522, § 28, 47 Stat. 740.)

§ 1449. Reservation of right to amend or repeal chapter

The right to alter, amend, or repeal this chapter is expressly reserved.

(July 22, 1932, ch. 522, § 30, 47 Stat. 741.)

CHAPTER 11A—FEDERAL HOME LOAN MORTGAGE CORPORATION

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1457. Prohibited activities; penalties for violations by organizations, officers and members of organizations, and individuals; extension of provisions of Title 18.
1458. Territorial applicability.
1459. Applicability of other laws; separability of provisions.

§ 1451. Definitions

As used in this chapter—

(a) The term "Board of Directors" means the Board of Directors of the Corporation.

(b) The term "Corporation" means the Federal Home Loan Mortgage Corporation created by this chapter.

(c) The term "law" includes any law of the United States or of any State (including any rule of law or of equity).

(d) The term "mortgage" includes such classes of liens as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located together with the credit instruments, if any, secured thereby, and includes interests in mortgages.

(e) The term "organization" means any corporation, partnership, association, business trust, or business entity.

(f) The term "prescribe" means to prescribe by regulations or otherwise.

(g) The term "property" includes any property, whether real, personal, mixed, or otherwise, including without limitation on the generality of the foregoing choses in action and mortgages, and includes any interest in any of the foregoing.

(h) The term "residential mortgage" means a mortgage which (1) is a mortgage on real estate, in fee simple or under a leasehold having such term as may be prescribed by the Corporation, upon which there is located a structure or structures designed in whole or in part for residential use, or which comprises or includes one or more condominium units or dwelling units (as defined by the Corporation) and (2) has such characteristics and meets such requirements as to amount, term, repayment provisions, number of families, status as a first lien on such real estate, and otherwise, as may be prescribed by the Corporation.

(i) The term "conventional mortgage" means a mortgage other than a mortgage as to which the Corporation has the benefit of any guaranty, insurance or other obligation by the United States or a State or an agency or instrumentality of either.

(j) The term "security" has the meaning ascribed to it by section 77b of title 15.

(k) The term "State", whether used as a noun or otherwise, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(Pub. L. 91-351, title III, § 302, July 24, 1970, 84 Stat. 451.)

Short Title

Section 301 of Pub. L. 91-351 provided that: "This title [which enacted this chapter] may be cited as the 'Federal Home Loan Mortgage Corporation Act'."

§ 1452. Federal Home Loan Mortgage Corporation

(a) Creation; Board of Directors; Chairman; principal office; member of each Federal home loan bank; liabilities, conditions, and limitations

There is created the Federal Home Loan Mortgage Corporation, which shall be a body corporate and shall be under the direction of a Board of Directors composed of the members of the Federal Home Loan Bank Board, who shall serve as such without additional compensation. The Chairman of the Federal Home Loan Bank Board shall be the Chairman of the Board of Directors. The principal office of the Corporation shall be in the District of Columbia or at such other place as the Corporation may from time to time prescribe. The Corporation shall be a member of each Federal home loan bank and, except as otherwise provided by the Federal Home Loan Bank Board, shall have all the benefits, powers, and privileges, and in the exercise thereof shall be subject to all liabilities, conditions, and limitations (except those relating to Federal home loan bank stock and subscriptions thereto and those under provisions of the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.] preceding section 9 [12 U.S.C. 1429]) which are provided by the terms of such Act or other Federal statute for members of any such bank.

(b) Powers of the Corporation

The Corporation shall have power (1) to adopt, alter, and use a corporate seal; (2) to have succession until dissolved by Act of Congress; (3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter; (4) to make and perform contracts, agreements, and commitments; (5) to prescribe and impose fees and charges for services by the Corporation; (6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation; (7) to sue and be sued, complain and defend, in any State, Federal, or other court; (8) to acquire, take, hold, and own, and to deal with and dispose of any property; and (9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents, all without regard to any other law except as may be provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of this sentence. Nothing in this chapter or any other law shall be construed to prevent the appointment, employment, and provision for compensation and benefits, as an officer, employee, attorney, or agent of the Corporation, of any officer, employee, attorney, or agent of any department, establishment, or corporate or other instrumentality of the Government, including any Federal home loan bank or member thereof. The Corporation, with the consent of any such department, establishment, or instrumentality, including any field services thereof, may utilize and act through any such department, establishment, or instrumentality and may avail

itself of the use of information, services, facilities, and personnel thereof, and may pay compensation therefor, and all of the foregoing are hereby authorized to provide the same to the Corporation as it may request.

(c) Investment of funds; designation as depositary, custodian, or agent for Corporation of any Federal Reserve bank, Federal home loan bank, or any bank designated as depositary of public monies

Funds of the Corporation may be invested in such investments as the Board of Directors may prescribe. Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of public money, may be designated by the Corporation as a depositary or custodian or as a fiscal or other agent of the Corporation, and is hereby authorized to act as such depositary, custodian, or agent. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public money, under such regulations as may be prescribed by the Secretary of the Treasury, and may also be employed as fiscal or other agent of the United States, and it shall perform all such reasonable duties as such depositary or agent as may be required of it.

(d) Exemption from Federal, State, and local taxation; exception; applicability of other provisions

The Corporation, including its franchise, activities, capital, reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The provisions of this subsection shall be applicable without regard to any other law, including without limitation on the generality of the foregoing section 3301 of title 26, except laws hereafter enacted by Congress expressly in limitation of this subsection.

(e) Actions by and against the Corporation; jurisdiction; removal of actions; attachment or execution issued against the Corporation

Notwithstanding section 1349 of title 28 or any other provision of law, (1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28; (2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and (3) any civil or other action, case or controversy in a court of a State, or in any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation, without the giving of any bond or security, to the district court of the United States for the district and division embracing the place where the same is pending, or, if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

(Pub. L. 91-351, title III, § 303, July 24, 1970, 84 Stat. 452.)

REFERENCES IN TEXT

The Federal Home Loan Bank Act, referred to in subsec. (a), is act July 22, 1932, ch. 522, 47 Stat. 725, and is classified generally to chapter 11 (§ 1421 et seq.) of this title. The provisions preceding section 9 are classified to sections 1421 to 1428a of this title. For complete classification of this Act to the Code, see section 1421 of this title and Tables volume.

§ 1453. Capitalization of Federal Home Loan Mortgage Corporation

(a) Nonvoting common stock; par value; transfer of stock

The capital stock of the Corporation shall consist of nonvoting common stock which shall be issued only to Federal home loan banks and shall have such par value and such other characteristics as the Corporation prescribes. Stock of the Corporation shall be evidenced in such manner and shall be transferable only to such extent, to such transferees, and in such manner as the Corporation prescribes.

(b) Mandatory subscription of stock by Federal home loan banks; limitation on amount

The Federal home loan banks shall from time to time subscribe, at such price not less than par as the Corporation shall from time to time fix, for such amounts of common stock as the Corporation prescribes, and such banks shall pay therefor at such time or times and in such amount or amounts as may from time to time be fixed by call of the Corporation. The amount of the payments for which such banks may be obligated under such subscriptions shall not exceed a cumulative total of $100,000,000.

(c) Allocation of subscriptions

Subscriptions of the respective Federal home loan banks to such stock shall be allocated by the Corporation.

(d) Retirement of stock; procedure; limitations; value; declaration of dividends

The Corporation may retire at any time all or any part of the stock of the Corporation, or may call for retirement all or any part of the stock of the Corporation by (1) publishing a notice of the call in the Federal Register or providing such notice in such other manner as the Corporation may determine to be appropriate, and (2) depositing with the Treasurer of the United States, for the purpose of such retirement, funds sufficient to effect such retirement. No call for the retirement of any stock shall be made, and no stock shall be retired without call, if immediately after such action, the total of the stock not called for retirement and of the reserves and surplus of the Corporation would be less than $100,000,000. The retirement of stock shall be at the par value thereof, or at the price at which such stock was issued if such price is greater than par value. No declaration of any dividend on stock of the Corpora-

tion shall be effective with respect to stock which at the time of such declaration is the subject of an outstanding retirement call the effective date of which has arrived.

(Pub. L. 91-351, title III, § 304, July 24, 1970, 84 Stat. 454.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1455 of this title.

§ 1454. Purchase and sale of mortgages; residential mortgages; conventional mortgages; terms and conditions of sale or other disposition; authority to enter into, perform, and carry out transactions

(a)(1) The Corporation is authorized to purchase, and make commitments to purchase, residential mortgages from any Federal home loan bank, the Federal Savings and Loan Insurance Corporation, any member of a Federal home loan bank, or any other financial institution the deposits or accounts of which are insured by an agency of the United States, or from any financial institution the deposits or accounts of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20 per centum of the total amount of such deposits in all banks, building and loan, savings and loan, and homestead associations (including cooperative banks) in that State. The Corporation may hold and deal with, and sell or otherwise dispose of, pursuant to commitments or otherwise, any such mortgage or interest therein, and the servicing on any such mortgage may be performed by the seller or by a financial institution qualified as a seller under the provisions of the preceding sentence, or by a mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act [12 U.S.C. 1701 et seq.], with which institution or mortgagee the seller may contract. The operations of the Corporation under this section shall be confined so far as practicable to residential mortgages which are deemed by the Corporation to be of such quality, type, and class as to meet generally the purchase standards imposed by private institutional mortgage investors.

(2) No conventional mortgage shall be purchased under this section if the outstanding principal balance of the mortgage at the time of purchase exceeds 80 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 80 per centum is guaranteed or insured by a qualified insurer as determined by the Corporation. The Corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The Corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation which were originated more than one year prior to the date of purchase does not exceed 20 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation. The Corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it, but such limitations shall not exceed the limitations contained in the first proviso to the first sentence of section 1464(c) of this title.

(3) The sale or other disposition by the Corporation of a mortgage under this section may be with or without recourse, and shall be upon such terms and conditions relating to resale, repurchase, guaranty, substitution, replacement, or otherwise as the Corporation may prescribe.

(b) Notwithstanding any other law, authority to enter into and to perform and carry out any transactions or matter referred to in this section is conferred on any Federal home loan bank, the Federal Savings and Loan Insurance Corporation, any Federal savings and loan association, any Federal home loan bank member, and any other financial institution the deposits or accounts of which are insured by an agency of the United States to the extent that Congress has the power to confer such authority.

(Pub. L. 91-351, title III, § 305, July 24, 1970, 84 Stat. 454; Pub. L. 93-383, title VIII, § 805(a), (b), Aug. 22, 1974, 88 Stat. 726; Pub. L. 93-495, title I, § 113, Oct. 28, 1974, 88 Stat. 1506.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a)(1), is classified to chapter 13 (§ 1701 et seq.) of this title.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-495 added provisions relating to State insurance of deposits or accounts in financial institutions.

Pub. L. 93-383, § 805(a), substituted ". The Corporation may hold" for ", and to hold" and added provisions relating to the servicing of any such mortgage by the seller or qualified financial institution.

Subsec. (a)(2). Pub. L. 93-383, § 805(b), substituted "80" for "75" in two places and "not exceed 20" for "not exceed 10", struck out "private" preceding "insurer" in cl. (C), and substituted provisions relating to limitations contained in the first proviso to the first sentence of section 1464(c) of this title, for provisions relating to limitations applicable if the mortgage were insured by the Secretary under section 1709(b) or 1713 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 1431, 1436, 1464, 1757 of this title.

§ 1455. Obligations and securities of the Corporation

(a) Authority to issue; terms and conditions; validity

The Corporation is authorized, upon such terms and conditions as it may prescribe, to borrow, to give security, to pay interest or other return, and to issue notes, debentures, bonds, or

other obligations, or other securities, including without limitation mortgage-backed securities guaranteed by the Government National Mortgage Association in the manner provided in section 1721(g) of this title. Any obligation or security of the Corporation shall be valid and binding notwithstanding that a person or persons purporting to have executed or attested the same may have died, become under disability, or ceased to hold office or employment before the issuance thereof.

(b) Prohibitions and restrictions; creation of liens and charges; rank and priority; causes of action to enforce; jurisdiction; service of process

The Corporation may, by regulation or by writing executed by the Corporation, establish prohibitions or restrictions upon the creation of indebtedness or obligations of the Corporation or of liens or charges upon property of the Corporation, including after-acquired property, and create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Corporation, including after-acquired property. Such prohibitions, restrictions, liens, and charges shall have such effect, including without limitation on the generality of the foregoing such rank and priority, as may be provided by regulations of the Corporation or by writings executed by the Corporation, and shall create causes of action which may be enforced by action in the United States District Court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located. Process in any such action may run to and be served in any judicial district or any place subject to the jurisdiction of the United States.

(c) Guarantee by Federal home loan banks of timely and faithful performance

The Federal home loan banks shall, to such extent as the Board of Directors may prescribe, guarantee the faithful and timely performance by the Corporation of any obligation or undertaking of the Corporation on or with respect to any security (which term as used in this sentence shall not include the capital stock referred to in section 1453 of this title).

(d) Validity of provisions; validity of restrictions, prohibitions, liens, or charges

The provisions of this section and of any restriction, prohibition, lien, or charge referred to in subsection (b) of this section shall be fully effective notwithstanding any other law, including without limitation on the generality of the foregoing any law of or relating to sovereign immunity or priority.

(Pub. L. 91-351, title III, § 306, July 24, 1970, 84 Stat. 455.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 1431, 1436, 1464, 1757 of this title.

§ 1456. Rights and remedies of the Corporation; entitlement to immunities and priorities; exceptions; audit of financial transactions by the General Accounting Office; procedure; access to books, etc.; report to Congress; reimbursement of costs

(a) All rights and remedies of the Corporation, including without limitation on the generality of the foregoing any rights and remedies of the Corporation on, under, or with respect to any mortgage or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under (1) any law (except laws enacted by the Congress expressly in limitation of this sentence) which becomes effective after the acquisition by the Corporation of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law, or (2) any administrative or other action which becomes effective after such acquisition. The Corporation shall be entitled to all immunities and priorities, including without limitation on the generality of the foregoing all immunities and priorities under any such law or action, to which it would be entitled if it were the United States or if it were an unincorporated agency of the United States.

(b) The financial transactions of the Corporation shall be subject to audit by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The Corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.

(Pub. L. 91-351, title III, § 307, July 24, 1970, 84 Stat. 456.)

§ 1457. Prohibited activities; penalties for violations by organizations, officers and members of organizations, and individuals; extension of provisions of title 18

(a) Except as expressly authorized by statute of the United States, no individual or organization (except the Corporation) shall use the term "Federal Home Loan Mortgage Corporation", or any combination of words including the words "Federal", and "Home Loan", and "Mortgage", as a name or part thereof under which any individual or organization does any business, but this sentence shall not make unlawful the use of any name under which business is being done on July 24, 1970. No individual or organization shall use or display (1) any sign, device, or insigne prescribed or approved by the Corporation for use or display by the Corporation or by members of the Federal home loan banks, (2) any copy, reproduction, or colorable imitation of any such sign, device, or insigne, or (3) any sign, device, or insigne reasonably calculated to convey the impression that it is a sign, device, or insigne used by the Corporation or prescribed or approved by the Corporation, contrary to regulations of the Corporation prohibiting, or limiting or restricting, such use or display by such individual or orga-

nization. An organization violating this subsection shall for each violation be punished by a fine of not more than $10,000. An officer or member of an organization participating or knowingly acquiescing in any violation of this subsection shall be punished by a fine of not more than $5,000 or imprisonment for not more than one year, or both. An individual violating this subsection shall for each violation be punished as set forth in the sentence next preceding this sentence.

(b) The provisions of sections 215, 607, 658, 1011, and 1014 of title 18 are extended to apply to and with respect to the Corporation, and for the purposes of such section 658 the term "any property mortgaged or pledged", as used therein, shall without limitation on its generality include any property subject to mortgage, pledge, or lien acquired by the Corporation by assignment or otherwise.

(c) The term "bank examiner or assistant examiner", as used in section 655 of such title 18, shall include any examiner or assistant examiner who is an officer or employee of the Corporation and any person who makes or participates in the making of any examination of or for the Corporation.

(d) The term "bank", as used in subsection (f) of section 2113 of such title 18, shall be deemed to include the Corporation, and any building used in whole or in part by the Corporation shall be deemed to be used in whole or in part as a bank, within the meaning of such section 2113.

(e) The terms "agency" and "agencies" shall be deemed to include the Corporation wherever used with reference to an agency or agencies of the United States in sections 201, 202, 203, 205, 207, 208, 209, 286, 287, 371, 506, 595, 602, 641, 654, 701, 872, 1001, 1002, 1016, 1017, 1361, 1505, and 2073 of such title 18. Any officer or employee of the Corporation shall be deemed to be a person mentioned in section 602 of such title 18 within the meaning of sections 603 and 606 of such title.

(f) The terms "obligation or other security" and "obligations or other securities", wherever used (with or without the words "of the United States") in sections 471 to 476, both inclusive, and section 492 of such title 18, are extended to include any obligation or other security of or issued by the Corporation. Any reference in sections 474, 494, 495, and 642 of such title 18 to the United States Code,[1] except in a territorial sense, or to the Secretary of the Treasury is hereby extended to include the Corporation. Section 477 of such title 18 is extended to apply with respect to section 476 of such title as extended by the first sentence of this subsection, and for this purpose the term "United States" as used in such section 476 shall include the Corporation.

(Pub. L. 91-351, title III, § 308, July 24, 1970, 84 Stat. 456.)

§ 1458. Territorial applicability

Notwithstanding any other law, this chapter shall be applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(Pub. L. 91-351, title III, § 309, July 24, 1970, 84 Stat. 457.)

§ 1459. Applicability of other laws; separability of provisions

Except as otherwise provided in this chapter, or as otherwise provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of provisions of this chapter, the powers and functions of the Corporation and of the Board of Directors shall be exercisable, and the provisions of this chapter shall be applicable and effective, without regard to any other law. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Pub. L. 91-351, title III, § 310, July 24, 1970, 84 Stat. 457.)

CHAPTER 12—FEDERAL SAVINGS AND LOAN ASSOCIATIONS

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(e) Qualifications of incorporators; selection of localities for establishment.
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(g) Subscription to preferred stock by United States; retirement.
(h) Exemptions from taxation.
(i) Conversion of member of Federal Home Loan Bank into Federal Savings and Loan Association; conversion of Federal Savings and Loan Association into State-chartered institution.
(j) Subscription to full-paid income shares by United States.

[1] So in original. Probably should read without term "Code".

Sec.
(k) Federal savings and loan associations or Federal Home Loan Banks as fiscal agents of United States.
1465. Encouragement of saving and home financing.
1466. Territorial application.
1466a. District of Columbia Savings and Loan Associations.
(a) Powers and functions of Board as to examination, operation, and regulation; enforcement provisions.
(b) Statutory authorities.
(c) Amendment of organic documents; voting.
(d) Conversion into Federal Savings and Loan Associations; same regulations for District and Federal Associations.
1467. Repealed.
1468. Separability clause.
1469. Authority to invest in state housing corporations.
1470. Federal supervision of insured institutions, State member and nonmember banks; access to information; definitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 433.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 26-415, 26-416, 35-1321 of the District of Columbia Code.

§ 1461. Short title

This chapter may be cited as the "Home Owners' Loan Act of 1933."

(June 13, 1933, ch. 64, § 1, 48 Stat. 128.)

ABOLISHMENT OF HOME OWNERS' LOAN CORPORATION

The Home Owners' Loan Corporation, which was created by the Home Owners' Loan Act of 1933, referred to in this section, was dissolved and abolished by act June 30, 1953, ch. 170, § 21, 67 Stat. 126, set out in note under former section 1463 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 35-1321 of the District of Columbia Code.

§ 1462. Definitions

As used in this chapter—

(a) The term "Board" means the Federal Home Loan Bank Board.

(b), (c). Omitted.

(d) The term "association" means a Federal Savings and Loan Association chartered by the Board as provided in section 1464 of this title.

(June 13, 1933, ch. 64, § 2, 48 Stat. 128; June 27, 1934, ch. 847, title V, § 508(a), 48 Stat. 1264; May 28, 1935, ch. 150, § 10, 49 Stat. 296; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640.)

CODIFICATION

Subsec. (b), which defined the term "Corporation" as used in this chapter, as meaning the Home Owners' Loan Corporation, and subsec. (c), which defined the terms "home mortgage" and "first mortgage", as used in this chapter in connection with the operations of such Corporation, have been omitted from this section as obsolete in view of the liquidation and abolishment of the Home Owners' Loan Corporation. See note under former section 1463 of this title.

AMENDMENTS

1935—Subsec. (c). Act May 28, 1935, inserted "or dwellings" and "in whole or in part", in cl. (2).

1934—Subsec. (c). Act June 27, 1934, substituted in cl. (1), and cl. (2), to and including "was executed", for "under a lease renewable for not less than ninety nine years".

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955.

TRANSFER OF FUNCTIONS

In subsec. (a) "Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board created under chapter 11 of this title" by Reorg. Plan No. 3 of 1947, set out in the Appendix to Title 5, Government Organization and Employees. The Plan abolished the Federal Home Loan Bank Board and transferred its functions to the Home Loan Bank Board created by the Plan.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 35-1321 of the District of Columbia Code.

§ 1463. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 648

Section, acts June 13, 1933, ch. 64, § 4, 48 Stat. 129; Apr. 27, 1934, ch. 168, §§ 1(a), 2, 3, 4, 13, 48 Stat. 643, 644, 645, 647; June 27, 1934, ch. 847, title V, §§ 506, 508(b), 48 Stat. 1263, 1264; May 28, 1935, ch. 150, §§ 10 to 17(a), 49 Stat. 296, 297; Aug. 11, 1939, ch. 684, 53 Stat. 1403; Oct. 24, 1942, ch. 621, 56 Stat. 986; June 30, 1947, ch. 166, title II, § 206(f), 61 Stat. 206, related to the creation of the Home Owners' Loan Corporation, for appointment and compensation of its board of directors, for appointment and compensation of its employees, and for other powers.

ABOLISHMENT OF HOME OWNERS' LOAN CORPORATION

Act June 30, 1953, ch. 170, § 21, 67 Stat. 126, provided:

"(a) The Home Owners' Loan Corporation created pursuant to section 4 of the Home Owners' Loan Act of 1933, as amended [former section 1463 of this title] (referred to in this section as the 'Corporation'), shall cease to exist and shall for all purposes be considered dissolved and abolished, except as otherwise provided in this section, one hundred and eighty days after the date the Home Loan Bank Board publishes in the Federal Register a notice to that effect, which shall also contain information as to the time for, and manner of, filing claims against the Corporation. The period of time prescribed for the filing of such claims shall be the ninety days immediately following the date of publication of the notice, and all creditors and claimants who have not presented their claims or demands within that period shall be forever barred from presenting or prosecuting the same, and any creditor or claimant who has not instituted suit within sixty days from the date his claim or demand is rejected by the Corporation shall be forever barred.

"(b) With respect to any action, suit, or other legal proceeding commenced against the Corporation prior to the date of its dissolution, the Corporation shall continue a body corporate for the purpose of defending such suit and for no other purpose, and service of subpena or other process in such proceeding may be made upon the Corporation by serving the same on the Secretary to the Home Loan Bank Board.

"(c) Effective as of the date of the dissolution of the Corporation, (1) the title to any and all real property remaining in the Corporation on such date is transferred to the United States of America, (2) authority is given to the Home Loan Bank Board to sell and convey such property in the name of the United States of America for such cash consideration as such

Board shall deem reasonable, and (3) all powers of the Corporation with respect to the execution of any instruments or documents affecting title to real estate or with respect to authorizing satisfactions of judgments are transferred to such Board. Any such instruments or documents executed by the Secretary or an Assistant Secretary to such Board on behalf of the Board shall be as effective as if the same had been executed by the Corporation prior to its dissolution. Subject to the approval of the Director of the Bureau of the Budget, such Board may transfer to any other department or agency of the United States, with the consent of such department or agency, all the powers and functions vested in such Board by this subsection. All liens held by the Corporation upon real or personal property on account of judgments rendered in its favor, except judgments for mortgage debts which have been assigned by the Corporation, and all claims now held by the Corporation arising out of its mortgage or real estate operations, whether for rent or otherwise, are hereby released and discharged in full.

"(d) The authority to appropriate for any functions relating to the Corporation may continue to be exercised after its dissolution for the purpose of making appropriations to any department or agency carrying out the provisions of this section."

§ 1463a. Omitted

CODIFICATION

Section, act Apr. 27, 1934, ch. 168, § 1(b), 48 Stat. 644, provided that amendments made to subsec. (c) of former section 1463 of this title, except with respect to refunding, by act Apr. 27, 1934, should not apply to any bonds prior to Apr. 27, 1934, issued under subsec. (c), or to any bonds thereafter issued in compliance with commitments of the Corporation outstanding on Apr. 27, 1934.

Reorg. Plan No. 3 of 1947, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 208, set out in the Appendix to Title 5, Government Organization and Employees, consolidated the Home Owners' Loan Corporation with other agencies in the Housing and Home Finance Agency. The plan abolished the Board of Directors of the Home Owners' Loan Corporation and transferred its functions to the Home Loan Bank Board created by the Plan. The plan also transferred the functions of the Federal Loan Administrator with respect to the Corporation and its functions to the Housing and Home Finance Administrator.

§ 1463b. Repealed. May 28, 1935, ch. 150, § 17(b), 49 Stat. 297

Section, act Apr. 27, 1934, ch. 168, § 9, 48 Stat. 646, related to purchase of obligations of, and loans to, Federal Home Loan Banks.

§ 1464. Federal Savings and Loan Associations

(a) Organization authorized

In order to provide local mutual thrift institutions in which people may invest their funds and in order to provide for the financing of homes, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as "Federal Savings and Loan Associations", and to issue charters therefor, giving primary consideration to the best practices of local mutual thrift and home-financing institutions in the United States.

(b) Capital; members of the association; voting rights; payment of savings accounts and withdrawals; nontransferable orders or authorizations; authorization to borrow, give security, act as surety, and issue notes, bonds, debentures, or other obligations

(1) An association may raise capital in the form of such savings deposits, shares, or other accounts, for fixed, minimum, or indefinite periods of time (all of which are referred to in this section as savings accounts and all of which shall have the same priority upon liquidation) as are authorized by its charter or by regulations of the Board, and may issue such passbooks, time certificates of deposit, or other evidence of savings accounts as are so authorized. Holders of savings accounts and obligors of an association shall, to such extent as may be provided by its charter or by regulations of the Board, be members of the association, and shall have such voting rights and such other rights as are thereby provided. Except as may be otherwise authorized by the association's charter or regulation of the Board in the case of savings accounts for fixed or minimum terms of not less than thirty days, the payment of any savings account shall be subject to the right of the association to require such advance notice, not less than thirty days, as shall be provided for by the charter of the association or the regulations of the Board. The payment of withdrawals from savings accounts in the event an association does not pay all withdrawals in full (subject to the right of the association to require notice) shall be subject to such rules and procedures as may be prescribed by the association's charter or by regulation of the Board, but any association which, except as authorized in writing by the Board, fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition to transact business within the meaning of subsection (d) of this section. Savings accounts shall not be subject to check or to withdrawal or transfer on negotiable or transferable order or authorization to the association, but the Board may by regulation provide for withdrawal or transfer of savings accounts upon nontransferable order or authorization.

(2) To such extent as the Board may authorize by regulation or advice in writing, an association may borrow, may give security, may be surety as defined by the Board and may issue such notes, bonds, debentures, or other obligations, or other securities (except capital stock) as the Board may so authorize.

(c) Loans; security required; investment of assets

Such associations shall lend their funds only on the security of their saving accounts or on the security of first liens upon real property within one hundred miles of their home office or within the State in which such home office is located which constitute first liens upon homes, combinations of homes and business property, other dwelling units, or combinations of dwelling units, including homes, and business property involving only minor or incidental business use (all of which may be defined by the Board): *Provided,* That not more than $55,000 (except that with respect to dwellings in Alaska, Guam, and Hawaii the foregoing limitation may, by regulation of the Board, be

increased by not to exceed 50 per centum) for each single-family dwelling, and not more than such amount per room as the Board may determine by regulation within the limits allowable (at the time of the loan) in section 207(c)(3) of the National Housing Act [12 U.S.C. 1713(c)(3)] for any other dwelling unit covered by such lien, shall be loaned on the security of any such lien, and the Board shall by regulation limit to not more than 20 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association under the foregoing provisions of this sentence on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property; except that not exceeding 20 per centum of the assets of such association may be loaned on the security of first liens upon improved real estate without regard to the foregoing limitations, and additional sums not exceeding 20 per centum of the assets of an association may be used without regard to such area restriction for the making or purchase of participating interests in first liens on real property or the type described in this sentence in the matter preceding this proviso: *And provided further,* That any portion of the assets of such associations may be invested in obligations of, or fully guaranteed as to principal and interest by the United States, or in the stock or bonds of a Federal Home Loan Bank, or in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1454 or 1455], or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association, or any other agency of the United States, or the stock of the Federal National Mortgage Association; or in time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation; or in general obligations of any State or of any political subdivision thereof or in obligations or other instruments or securities of the Student Loan Marketing Association; and as used in this section the term "State" shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States: *And provided further,* That any such association which is converted from a State-chartered institution may continue to make loans in the territory in which it made loans while operating under State charter. In addition to the loans and investments otherwise authorized, such associations may purchase, subject to all the provisions of this paragraph except the area restriction, loans secured by first liens on improved real estate which are insured under the provisions of the National Housing Act, as amended [12 U.S.C. 1701 et seq.], or insured as provided in the Servicemen's Readjustment Act of 1944, as amended, or chapter 37 of title 38. Structures or parts thereof designed or used as fraternity or sorority houses which include sleeping accommodations for students of a college or university, or designed or used principally for the provision of living accommodations for persons who are students, employees, or members of the staff of a college, university, or hospital, shall be considered, subject to such regulations as the Board may prescribe, "other dwelling units" for the purposes of this subsection.

Without regard to any other provision of this subsection except the area requirement, any such association is authorized to invest a sum not in excess of 20 per centum of the assets of such association in loans insured under title I of the National Housing Act [12 U.S.C. 1702 et seq.], in home improvement loans insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.], in unsecured loans insured or guaranteed under the provisions of the Servicemen's Readjustment Act of 1944, as amended, or chapter 37 of title 38, and in other loans for property alteration, repair, or improvement, including the construction of new structures related to residential use of the property: *Provided,* That no such loan, unless so insured or guaranteed, shall be made in excess of $10,000. Participating interests in loans secured by mortgages which have the benefit of insurance or guaranty (or a commitment therefor) under the National Housing Act [12 U.S.C. 1701 et seq.], the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38 shall not be taken into account in determining the amount of loans which an association may make within any of the percentage limitations contained in the first proviso of this subsection.

Without regard to any other provision of this subsection, but subject to such prohibitions, limitations, and conditions as the Board may by regulation prescribe, any such association may make and invest in—

(A) any loan not exceeding $10,000 made for the repair, equipping, alteration, or improvement of any real property, or

(B) any loan made for the purpose of mobile home financing.

Without regard to any other provision of this subsection, any such association is authorized to invest in loans, obligations, and advances of credit (all of which are hereinafter referred to as "loans") made for the payment of expenses of college, university, or vocational education, but no association shall make any investment in loans under this paragraph if the principal amount of its investment in such loans, exclusive of any investment which is or which at the time of its making was otherwise authorized, would thereupon exceed 5 per centum of its assets.

Without regard to any other provision of this subsection except the area restriction, any such association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest an amount not exceeding at any one time 5 per centum of such withdrawable accounts in loans to finance the acquisition and development of land for primarily residential usage, subject to such rules and regulations as the Board may prescribe.

Without regard to any other provision of this subsection except the area restriction and the dollar amount limitation, any such association

may invest an amount not exceeding at any one time 5 per centum of its assets in nonamortized loans which are made on the security of first liens upon homes or combinations of homes and business property and which (1) are repayable within a period of eighteen months, (2) provide that interest payments be made at least semiannually, and (3) do not exceed 80 per centum of the appraised value of the property involved. For the purposes of this paragraph the term "first liens" include the assignment of the whole of the beneficial interest in a trust having a corporate trustee whereunder real estate held in the trust can be subjected to the satisfaction of the obligation or obligations secured with the same priority as a first mortgage, a first deed of trust, or a first trust deed in the jurisdiction where the real estate is located.

Without regard to any other provision of this subsection except the area restriction, any such association is authorized to invest an amount not exceeding at any one time 5 per centum of its assets in amortized loans or participating interests therein which are secured by first liens upon improved real estate used to provide housing facilities for the aging, subject to the following qualifications:

(1) each such loan shall be repayable within a period of 30 years;

(2) no such loan shall exceed 90 per centum of the appraised value of the improved real estate given as security therefor; and

(3) each such loan—

(A) shall be made upon and secured by real estate which is improved by housing accommodations, individual or multiple, designed for the purpose of providing accommodations for occupancy by aging persons, or of providing rest homes or nursing homes, so constructed or altered as to be suitable primarily for the occupancy of persons over fifty-five years of age and limited principally to the occupancy of such persons; and

(B) shall be made for the implementation of the purpose described in clause (A).

Without regard to any other provision of this subsection, any such association is authorized to invest not more than 5 per centum of its assets in, or in interests in, real property located within urban renewal areas as defined in subsection (a) of section 110 of the Housing Act of 1949 [42 U.S.C. 1460] and obligations secured by first liens on real property so located, but no investment shall be made by an association under this sentence in real property or any interest therein if the aggregate investment of the association under this sentence in real property and interests therein, determined as prescribed by the Board, would thereupon exceed 3 per centum of the assets of the association.

Without regard to any other provisions of this subsection, any such association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, to lend to, or to commit itself to lend to any business development credit corporation incorporated in the State in which the head office of such association is situated, in the same manner and to the same extent as the statutes of such State authorize a savings and loan association organized under the laws of said State to invest in, to lend to, or to commit itself to lend to such business development credit corporation, but the aggregate amount of such investments, loans, and commitments of any such association outstanding at any time shall not exceed one-half of 1 per centum of the total outstanding loans made by such association, or $250,000, whichever is the lesser.

For the purpose of this section the terms "real property" and "real estate" shall include a leasehold or subleasehold estate in real property under a lease or sublease the term of which does not expire, or which is renewable automatically or at the option of the holder (or at the option of the association) so as not to expire, for at least ten years beyond the maturity of the debt.

Any such association is authorized to invest in the capital stock, obligations, or other securities of any corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of the association is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations of that State, District, Commonwealth, territory, or possession and by Federal savings and loan associations having their home offices therein, but no association may make any investment under this sentence if its aggregate outstanding investment under this sentence, determined as prescribed by the Board, would thereupon exceed 1 per centum of its assets.

Without regard to any other provision of this subsection, any such association may, to such extent as the Federal Home Loan Bank Board may by regulation permit, (1) invest in loans, and interests in loans, secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act [12 U.S.C. 1749aa et seq.], now or hereafter in effect, or of a commitment or agreement for such insurance, or (2) acquire and hold investments in housing project loans, or interests therein, having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 [22 U.S.C. 2181], as now or hereafter in effect, or loans, or interest therein, having the benefit of any guaranty under section 224 of such Act [22 U.S.C. 2184], or any commitment or agreement with respect to such loans, or interests therein, made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans, or interests therein, having the benefit of any guaranty under section 221 or 222 of the Foreign Assistance Act of 1961, as amended by section 105 of the Foreign Assistance Act of 1969 [22 U.S.C. 2181 or 2182] or as hereafter amended or extended, or of any commitment or agreement for any such guaranty. Investments under clause (1) of this paragraph shall not be included in any percentage of assets or other percentage referred to in this subsection. Investments under clause (2) of this paragraph shall not exceed, in the case of any association, 1 per centum of the assets of such association. Without regard to

any other provision of this subsection, an association may invest in loans or obligations, or interests therein, as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] or under part B of the Urban Growth and New Community Development Act of 1970 [42 U.S.C. 4511 et seq.] or under section 802 of the Housing and Community Development Act of 1974 [42 U.S.C. 1440], as now or hereafter in effect, or of a commitment or agreement therefor, and such investments shall not be included in any percentage of assets or other percentage referred to in this subsection.

Notwithstanding any other provision of this subsection, an association may invest in loans or obligations, or interests therein, as to which the association has the benefit of insurance under section 240 of the National Housing Act [12 U.S.C. 1715z-5], or of a commitment or agreement therefor, and such investments shall not be included in any percentage of assets or other percentage referred to in this subsection.

Any such association may invest in loans, or interests in loans, to financial institutions with respect to which the United States or any agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which it has any statutory authority to invest directly.

No building and loan association incorporated under the laws of the District of Columbia or organized in such District or doing business in such District shall establish any branch or move its principal office or any branch without the prior written approval of the Federal Home Loan Bank Board, and no other building and loan association shall establish any branch in such District or move its principal office or any branch in such District without such approval. As used in the sentence next preceding, "branch" means any office, place of business, or facility, other than the principal office as defined by the Board, of a building and loan association at which accounts are opened or payments thereon are received or withdrawals therefrom are paid, or any other office, place of business, or facility of a building and loan association defined by the Board as a branch within the meaning of such sentence, and as used in such sentence and in this sentence "building and loan association" means any incorporated or unincorporated building, building or loan, building and loan, savings and loan, or homestead association or cooperative bank.

Any such association may invest in any investment which, at the time of the making of the investment, is an asset eligible for inclusion toward the satisfaction of any liquidity requirement imposed on the association pursuant to section 5A of the Federal Home Loan Bank Act [12 U.S.C. 1425a], but only to the extent that the investment is permitted to be so included under regulations issued by the Board pursuant to that section, or is otherwise authorized.

Any such association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954 [26 U.S.C. 401(d)] and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code [26 U.S.C. 408], if the funds of such trust or account are invested only in savings accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this paragraph.

Any such association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act [12 U.S.C. 1721(g)].

Without regard to any other provision of this subsection, any such association is authorized to invest in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.], and is authorized to invest in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of said Act [42 U.S.C. 3937(a) or (c)].

Subject to regulation by the Board but without regard to any other provisions of this subsection, any such association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to invest in, to lend to, or to commit itself to lend to any State housing corporation incorporated in the State in which the home office of such association is situated, in the same manner and to the same extent as the statutes of such State authorize a savings and loan association organized under the laws of such State to invest in, to lend to, or commit itself to lend to such State housing corporation, but loans and loan commitments under this sentence shall be subject to appropriate limitations prescribed by the Board, and no association may make any investment, other than loans and loan commitments, under this sentence if its aggregate outstanding direct investment under this sentence, determined as prescribed by the Board, would thereupon exceed one-fourth of 1 per centum of its assets.

Without regard to any other provision of this subsection, any such association is authorized to invest an amount, not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 3 per centum of its assets, in loans or in interests therein the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate within one hundred miles of its home office or within the State in which such office is located, where (i) the association relies substantially for repayment on the borrower's general credit standing and forecast of income, with or without other security, or (ii) the association relies on other assurances for repayment, including but not limited to a guaranty or similar obligation of a third party, and, in either case described in

clause (i) or (ii), regardless of whether or not the association takes security; and investments under this sentence shall not be included in any percentage of assets or other percentage referred to in this subsection.

Subject to such prohibitions, limitations, and conditions as the Board may prescribe, any such association may invest in loans and advances of credit and interests therein upon the security of or respecting real property or interests therein used for primarily residential purposes (all of which may be defined by the Board) that do not comply with the limitations and restrictions in this subsection, but no investment shall be made by an association under this sentence if its aggregate outstanding investment under this sentence determined as prescribed by the Board, exclusive of any investment which is or at the time of its making was otherwise authorized, would thereupon exceed 5 per centum of its assets.

Subject to regulation by the Board but without regard to any other provision of this subsection, any such association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts is authorized to borrow funds from a State mortgage finance agency of the State in which the head office of such association is situated to the same extent as State law authorizes a savings and loan association organized under the laws of such State to borrow from the State mortgage finance agency, except that such an association may not make any loan of such funds at an interest rate which exceeds by more than 1¾ per centum per annum the interest rate paid to the State mortgage finance agency on the obligations issued to obtain the funds so borrowed.

(d) Proceedings to enforce compliance with law and regulations; cease and desist proceedings; temporary cease-and-desist orders; suspension or removal of directors or officers; appointment and removal of conservator or receiver; hearings and judicial review; regulations for reorganization, dissolutions, etc.; penalties; definitions; application to other institutions

(1) The Board shall have power to enforce this section and rules and regulations made hereunder. In the enforcement of any provision of this section or rules and regulations made hereunder, or any other law or regulation, or in any other action, suit, or proceeding to which it is a party or in which it is interested, and in the administration of conservatorships and receiverships, the Board is authorized to act in its own name and through its own attorneys. Except as otherwise provided herein, the Board shall be subject to suit (other than suits on claims for money damages) by any Federal savings and loan association or director or officer thereof with respect to any matter under this section or any other applicable law, or rules or regulations thereunder, in the United States district court for the judicial district in which the home office of the association is located, or in the United States District Court for the District of Columbia, and the Board may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.

(2)(A) If, in the opinion of the Board, an association is violating or has violated, or the Board has reasonable cause to believe that the association is about to violate, a law, rule, regulation, or charter or other condition imposed in writing by the Board in connection with the granting of any application or other request by the association, or written agreement entered into with the board, or is engaging or has engaged, or the Board has reasonable cause to believe that the association is about to engage, in an unsafe or unsound practice, the Board may issue and serve upon the association a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the association. Such hearing shall be fixed for a date not earlier than thrirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Board at the request of the association. Unless the association shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing the Board shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Board may issue and serve upon the association an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the association and its directors, officers, employees, and agents to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

(B) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the association concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

(3)(A) Whenever the Board shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the association pursuant to paragraph (2)(A) of this subsection, or the continuation thereof, is likely to cause insolvency (as defined in paragraph (6)(A)(i) of this subsection) or substantial dissipation of assets or earnings of the association, or is likely to otherwise seriously prejudice the interests of its savings account holders, the Board may issue a temporary order requiring the association to cease and desist from any such violation or practice. Such order shall become effective upon service upon the association and, unless set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Board shall dismiss the charges specified in such

notice or, if a cease-and-desist order is issued against the association, until the effective date of any such order.

(B) Within ten days after the association concerned has been served with a temporary cease-and-desist order, the association may apply to the United States district court for the judicial district in which the home office of the association is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the association under paragraph (2)(A) of this subsection, and such court shall have jurisdiction to issue such injunction.

(C) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order, the Board may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the association is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

(4)(A) Whenever, in the opinion of the Board, any director or officer of an association has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the association, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Board determines that the association has suffered or will probably suffer substantial financial loss or other damage or that the interests of its savings account holders could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, the Board may serve upon such director or officer a written notice of its intention to remove him from office.

(B) Whenever, in the opinion of the Board, any director or officer of an association, by conduct or practice with respect to another savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director or officer, and, whenever, in the opinion of the Board, any other person participating in the conduct of the affairs of an association, by conduct or practice with respect to such association or other savings and loan association or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such association, the Board may serve upon such director, officer, or other person a written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of such association.

(C) In respect to any director or officer of an association or any other person referred to in subparagraph (A) or (B) of this paragraph, the Board may, if it deems it necessary for the protection of the association or the interests of its savings account holders, by written notice to such effect served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the association. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subparagraph (E) of this paragraph, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under subparagraph (A) or (B) of this paragraph and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the association of which he is a director or officer or in the conduct of whose affairs he has participated.

(D) A notice of intention to remove a director, officer, or other person from office and/or to prohibit his participation in the conduct of the affairs of an association, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Board at the request of (i) such director, officer, or other person, and for good cause shown, or (ii) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition. In the event of such consent, or if upon the record made at any such hearing the Board shall find that any of the grounds specified in such notice has been established, the Board may issue such orders of suspension or removal from office, and/or prohibition from participation in the conduct of the affairs of the association, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such association and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

(E) Within ten days after any director, officer, or other person has been suspended from office and/or prohibited from participation in the conduct of the affairs of an association under subparagraph (C) of this paragraph, such director, officer, or other person may apply to the United States district court for the judicial district in which the home office of the association is located, or the United States Dis-

trict Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, or other person under subparagraph (A) or (B) of this paragraph, and such court shall have jurisdiction to stay such suspension and/or prohibition.

(5)(A) Whenever any director or officer of an association, or other person participating in the conduct of the affairs of such association, is charged in any information, indictment, or complaint authorized by a United States Attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Board may by written notice served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the association. A copy of such notice shall also be served upon the association. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Board. In the event that a judgment of conviction with respect to such offense is entered against such director, officer, or other person and at such time as such judgment is not subject to further appellate review, the Board may issue and serve upon such director, officer, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the association except with the consent of the Board. A copy of such order shall be served upon such association, whereupon such director or officer shall cease to be a director or officer of such association. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting proceedings to remove such director, officer, or other person from office and/or to prohibit further participation in association affairs, pursuant to subparagraph (A) or (B) of paragraph (4) of this subsection.

(B) if at any time, because of the suspension of one or more directors pursuant to this subsection (d), there shall be on the board of directors of an association less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board and not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of an association are suspended pursuant to this subsection (d), the Board shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the association and their respective successors take office.

(6)(A) The grounds for the appointment of a conservator or receiver for an association shall be one or more of the following: (i) insolvency in that the assets of the association are less than its obligations to its creditors and others, including its members; (ii) substantial dissipation of assets or earnings due to any violation or violations of law, rules, or regulations, or to any unsafe or unsound practice or practices; (iii) an unsafe or unsound conditions to transact business; (iv) willful violation of a cease-and-desist order which has become final; (v) concealment of books, papers, records, or assets of the association or refusal to submit books, papers, records, or affairs of the association for inspection to any examiner or to any lawful agent of the Board. The Board shall have exclusive power and jurisdiction to appoint a conservator or receiver. If, in the opinion of the Board, a ground for the appointment of a conservator or receiver as herein provided exists, the Board is authorized to appoint ex parte and without notice a conservator or receiver for the association. In the event of such appointment, the association may, within thirty days thereafter, bring an action in the United States district court for the judicial district in which the home office of such association is located, or in the United States District Court for the District of Columbia, for an order requiring the Board to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the Board to remove such conservator or receiver. Such proceedings shall be given precedence over other cases pending in such courts, and shall be in every way expedited. Upon the commencement of such an action, the court having jurisdiction of any other action or proceeding authorized under this subsection to which the association is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

(B) In addition to the foregoing provisions, the Board may, without any requirement of notice, hearing, or other action, appoint a conservator or receiver for an association in the event that (i) the association, by resolution of its board of directors or of its members, consents to such appointment, or (ii) the association is removed from membership in any Federal home loan bank, or its status as an institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation is terminated.

(C) Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver, or, except at the instance of the Board, restrain or affect the exercise of powers or functions of a conservator or receiver.

(D) A conservator shall have all the powers of the members, the directors, and the officers of the association and shall be authorized to operate the association in its own name or to conserve its assets in the manner and to the extent authorized by the Board. The Board shall appoint only the Federal Savings and Loan Insurance Corporation as receiver for an association, and said Corporation shall have power to buy at its own sale as receiver, subject to approval by the Board. The Board may, without any requirement of notice, hearing, or other action, replace a conservator with another conservator or with a receiver, but any such replacement shall not affect any right which the association may have to obtain judicial review of the original appointment, except that any removal under this paragraph (6) shall be removal of

the conservator or receiver in office at the time of such removal.

(7)(A) Any hearing provided for in this subsection (d) shall be held in the Federal judicial district or in the territory in which the home office of the association is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5. Such hearing shall be private, unless the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Board has notified the parties that the case has been submitted to it for final decision, the Board shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this subsection. Judicial review of any such order shall be exclusively as provided in this paragraph (7). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in subparagraph (B) of this paragraph, and thereafter until the record in the proceeding has been filed as so provided, the Board may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Board may modify, terminate, or set aside any such order with permission of the court.

(B) Any party to the proceeding, or any person required by an order issued under this subsection to cease and desist from any of the violations or practices stated therein, may obtain a review of any order served pursuant to subparagraph (A) of this paragraph (other than an order issued with the consent of the association or the director or officer or other person concerned, or an order issued under paragraph (5)(A) of this subsection), by filing in the court of appeals of the United States for the circuit in which the home office of the association is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Board be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the Board shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of said paragraph (A) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Board. Review of such proceedings shall be had as provided in chapter 7 of title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court, upon certiorari as provided in section 1254 of title 28.

(C) The commencement of proceedings for judicial review under subparagraph (B) of this paragraph shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Board.

(8) The Board may in its discretion apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the association is located, for the enforcement of any effective and outstanding notice or order issued by the Board under this subsection (d), and such courts shall have jurisdiction and power to order and require compliance therewith; but except as otherwise provided in this subsection no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this subsection, or to review, modify, suspend, terminate, or set aside any such notice or order. Any court having jurisdiction of any proceeding instituted under this subsection by an association or a director or officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the association or from its assets.

(9) In the course of or in connection with any proceeding under this subsection, the Board or any member thereof or a designated representative of the Board, including any person designated to conduct any hearing under this subsection, shall have power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Board is empowered to make rules and regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this paragraph may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted. Any party to proceedings under this subsection may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this paragraph shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. All expenses of the Board or of the Federal Savings and Loan Insurance Corporation in connection with this subsection shall be considered as nonadministrative expenses.

(10) Any service required or authorized to be made by the Board under this subsection may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Board may by regulation or otherwise provide.

(11) The Board shall have power to make rules and regulations for the reorganization, consolidation, liquidation, and dissolution of associations, for the merger of associations with other institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, for associations in conserva-

torship and receivership, and for the conduct of conservatorships and receiverships; and the Board may, by regulation or otherwise, provide for the exercise of functions by members, directors, or officers of an association during conservatorship and receivership.

(12)(A) Any director or officer, or former director or officer, of an association, or any other person, against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director, officer, or other person under paragraph (4)(C), (4)(D), or (5)(A) of this subsection, and who (i) participates in any manner in the conduct of the affairs of such association, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect of any voting rights in such association, or (ii) without the prior written approval of the Board, votes for a director or serves or acts as a director, officer, or employee of any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, shall upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

(B) Except with the prior written consent of the Board, no person shall serve as a director, officer, or employee of an association who has been convicted, or who is hereafter convicted, of a criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the association involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Board may recover by suit or otherwise for its own use.

(C) Whenever a conservator or receiver appointed by the Board demands possession of the property, business, and assets of any association, or of any part thereof, the refusal by any director, officer, employee, or agent of such association to comply with the demand shall be punishable by a fine of not more than $5,000 or imprisonment for not more than one year, or both.

(13)(A) As used in this subsection—

(1) The terms "cease-and-desist order which has become final" and "order which has become final" mean a cease-and-desist order, or an order, issued by the Board with the consent of the association or the director or officer or other person concerned, or with respect to which no petition for review of the action of the Board has been filed and perfected in a court of appeals as specified in paragraph (7)(B) of this subsection, or with respect to which the action of the court in which said petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in said paragraph, or an order issued under paragraph (5)(A) of this subsection.

(2) The term "State" includes the Commonwealth of Puerto Rico.

(3) The term "territory" includes any possession of the United States and any place subject to the jurisdiction of the United States.

(4) The terms "district", "district court", "district court of the United States", and "judicial district" shall have the meanings defined in section 451 of title 28.

(B) As used in paragraph (4) of this subsection, the term "violation" includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(14) As used in this subsection, the terms "Federal savings and loan association" and "association" shall include any institution with respect to which the Federal Home Loan Bank Board now or hereafter has any statutory power of examination or supervision under any Act or joint resolution of Congress other than this chapter, the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.], and the National Housing Act [12 U.S.C. 1701 et seq.]. For the purposes of this paragraph (14), references in this subsection to directors, officers, employees, and agents, or to former directors or officers, of associations shall be deemed to be references respectively to directors, officers, employees, and agents, or to former directors or officers, of such institutions, references therein to savings account holders and to members of associations shall be deemed to be references to holders of withdrawable accounts in such institutions, and references therein to boards of directors of associations shall be deemed to be references to boards of directors or other governing boards of such institutions. Said Board shall have power by regulation to define, for the purposes of this paragraph (14), terms used or referred to in the sentence next preceding and other terms used in this subsection.

(e) Qualifications of incorporators; selection of localities for establishment

No charter shall be granted except to persons of good character and responsibility, nor unless in the judgment of the Board a necessity exists for such an institution in the community to be served, nor unless there is a reasonable probability of its usefulness and success, nor unless the same can be established without undue injury to properly conducted existing local thrift and home-financing institutions.

(f) Associations as members of Federal Home Loan Bank

Each such association, upon its incorporation, shall become automatically a member of the Federal Home Loan Bank of the district in which it is located, or if convenience shall require and the Board approve, shall become a member of a Federal Home Loan Bank of an adjoining district. Such associations shall qualify for such membership in the manner provided in the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.] with respect to other members.

(g) Subscription to preferred stock by United States; retirement

The Secretary of the Treasury is authorized on behalf of the United States to subscribe for preferred shares in such associations which shall be preferred as to the assets of the association and which shall be entitled to a dividend, if earned, after payment of expenses and provision for reasonable reserves, to the same extent as other shareholders. It shall be the duty of the Secretary of the Treasury to subscribe for

such preferred shares upon the request of the Board; but the subscription by him to the shares of any one association shall not exceed $100,000, and no such subscription shall be called for unless in the judgment of the Board the funds are necessary for the encouragement of local home financing in the community to be served and for the reasonable financing of homes in such community. Payment on such shares may be called from time to time by the association, subject to the approval of the Board and the Secretary of the Treasury; but the amount paid in by the Secretary of the Treasury shall at no time exceed the amount paid in by all other shareholders, and the aggregate amount of shares held by the Secretary of the Treasury shall not exceed at any time the aggregate amount of shares held by all other shareholders. To enable the Secretary of the Treasury to make such subscriptions when called there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $100,000,000, to be immediately available and to remain available until expended. Each such association shall issue receipts for such payments by the Secretary of the Treasury in such form as may be approved by the Board, and such receipts shall be evidence of the interest of the United States in such preferred shares to the extent of the amount so paid. Each such association shall make provision for the retirement of its preferred shares held by the Secretary of the Treasury, and beginning at the expiration of five years from the time of the investment in such shares, the association shall set aside one-third of the receipts from its investing and borrowing shareholders to be used for the purpose of such retirement. In case of the liquidation of any such association the shares held by the Secretary of the Treasury shall be retired at par before any payments are made to other shareholders.

(h) Exemptions from taxation

No State, county, municipal, or local taxing authority shall impose any tax on such associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions.

(i) Conversion of member of Federal Home Loan Bank into Federal Savings and Loan Association; conversion of Federal Savings and Loan Association into State-chartered institution

Any member of a Federal Home Loan Bank may convert itself into a Federal savings and loan association under this chapter upon a vote of 51 per centum or more of the votes cast at a legal meeting called to consider such action; but such conversion shall be subject to such rules and regulations as the Board may prescribe, and thereafter the converted association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this chapter.

Any Federal savings and loan association may convert itself into a savings and loan type of institution organized pursuant to the laws of the State, District, or Territory (hereinafter referred to in this section as the State) in which the principal office of such Federal association is located: *Provided*, (1) That the State permits the conversion of any savings and loan type of institution of such State into a Federal savings and loan association; (2) that such conversion of a Federal savings and loan association into such a State institution is determined upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members called to consider such action, specified by the law of the State in which the home office of the Federal association is located, as required by such law for a State-chartered institution to convert itself into a Federal association, but in no event upon a vote of less than 51 per centum of all the votes cast at such meeting, and upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal association; (3) that notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof, and such notice shall be mailed, postage prepaid, at least twenty and not more than thirty days prior to the date of the meeting, to each member of record of the Federal association at his last address as shown on the books of the Federal association and to the General Manager of the Federal Savings and Loan Insurance Corporation, Washington, District of Columbia; (4) that, upon the effective date of the conversion, the association has repurchased the total amount invested in its shares by the Secretary of the Treasury; and (5) that if, upon the effective date of conversion, the Home Owners' Loan Corporation will hold of record shares of the association, its approval of the conversion has been obtained; (6) that, in the event of dissolution after conversion, the members or shareholders of the association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits; (7) that such conversion shall be effective upon the date that all the provisions of this chapter shall have been fully complied with and upon the issuance of a new charter by the State wherein the association is located; it being provided that its act of converting into a State-chartered institution shall constitute an agreement to be bound by all the requirements that the Federal Savings and Loan Insurance Corporation may legally impose under section 403 of title IV of the National Housing Act [12 U.S.C. 1726], as now or hereafter amended, and the association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Federal Savings and Loan Insurance Corporation for issuance by similar insured institutions in such State, District, or Territory.

In addition to the foregoing provision for conversion upon a vote of the members only any association chartered as a Federal savings and loan association, including any having outstanding shares held by the Secretary of the Treasury or Home Owners' Loan Corporation, may convert itself into a State institution upon

an equitable basis, subject to approval, by regulations or otherwise, by the Federal Home Loan Bank Board and by the Federal Savings and Loan Insurance Corporation: *Provided,* That if the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

(j) Subscription to full-paid income shares by United States

In addition to the authority to subscribe for preferred shares in Federal savings and loan associations, the Secretary of the Treasury is authorized on behalf of the United States to subscribe for any amount of full paid income shares in such associations, and it shall be the duty of the Secretary of the Treasury to subscribe for such full paid income shares upon the request of the Federal Home Loan Bank Board. Payment on such shares may be called from time to time by the association, subject to the approval of said Board and the Secretary of the Treasury, and such payments shall be made from the funds appropriated pursuant to subsection (g) of this section; but the amount paid in by the Secretary of the Treasury for shares under this subsection and said subsection (g), together shall at no time exceed 75 per centum of the total investment in the shares of such association by the Secretary of the Treasury and other shareholders. Each such association shall issue receipts for such payments by the Secretary of the Treasury in such form as may be approved by said Board and such receipts shall be evidence of the interest of the United States in such full paid income shares to the extent of the amount so paid. No request for the repurchase of the full paid income shares purchased by the Secretary of the Treasury shall be made for a period of five years from the date of such purchase, and thereafter requests by the Secretary of the Treasury for the repurchase of such shares by such associations shall be made at the discretion of the Board; but no such association shall be requested to repurchase any such shares in any one year in an amount in excess of 10 per centum of the total amount invested in such shares by the Secretary of the Treasury. Such repurchases shall be made in accordance with the rules and regulations prescribed by the Board for such associations.

(k) Federal savings and loan associations or Federal Home Loan Banks as fiscal agents of United States

When designated for that purpose by the Secretary of the Treasury, any Federal savings and loan association or member of any Federal Home Loan Bank may be employed as fiscal agent of the Government under such regulations as may be prescribed by said Secretary and shall perform all such reasonable duties as fiscal agent of the Government as may be required of it. Any Federal savings and loan association or member of any Federal Home Loan Bank may act as agent for any other instrumentality of the United States when designated for that purpose by such instrumentality of the United States.

(June 13, 1933, ch. 64, § 5, 48 Stat. 132; Apr. 27, 1934, ch. 168, §§ 5, 6, 48 Stat. 645, 646; May 28, 1935, ch. 150, § 18, 49 Stat. 297; Aug. 10, 1939, ch. 666, title IX, § 909, 53 Stat. 1402; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 6, 1947, ch. 503, 61 Stat. 786; July 3, 1948, ch. 825, § 1, 62 Stat. 1239; Oct. 20, 1951, ch. 521, title III, § 313(d), 65 Stat. 490; July 14, 1952, ch. 723, § 12, 66 Stat. 604; Aug. 2, 1954, ch. 649, title II, § 204(b), title V, § 503, 68 Stat. 622, 634; Aug. 11, 1955, ch. 783, title I, §§ 109(a)(3), 110, 69 Stat. 640, 641; Aug. 7, 1956, ch. 1029, title VI, § 604, 70 Stat. 1114; Sept. 2, 1958, Pub. L. 85-857, § 13(f), 72 Stat. 1264; Sept. 23, 1959, Pub. L. 86-372, title VIII, § 805, 73 Stat. 687; June 11, 1960, Pub. L. 86-507, § 1(11), 74 Stat. 200; June 30, 1961, Pub. L. 87-70, title IX, § 901, 75 Stat. 189; Oct. 9, 1962, Pub. L. 87-779, § 1, 76 Stat. 778; Oct. 16, 1962, Pub. L. 87-834, § 6(e)(1), 76 Stat. 984; Sept. 2, 1964, Pub. L. 88-560, title IX, §§ 901(a), 902-905, 907, 908, 910, 78 Stat. 804-806; Aug. 10, 1965, Pub. L. 89-117, title II, § 201(b)(3), title XI, § 1110(a)-(c), 79 Stat. 465, 507; Oct. 16, 1966, Pub. L. 89-695, title I, § 101(a), 80 Stat. 1028; Aug. 1, 1968, Pub. L. 90-448, title III, § 304(b), title IV, § 416(c), title VIII, §§ 804(e), 807(m), title XVII, § 1716, 82 Stat. 508, 518, 543, 545, 608; Sept. 21, 1968, Pub. L. 90-505, § 5, 82 Stat. 858; Oct. 16, 1968, Pub. L. 90-575, title I, § 118(b), 82 Stat. 1026; Dec. 24, 1969, Pub. L. 91-152, title IV, § 416(b), 83 Stat. 401; July 24, 1970, Pub. L. 91-351, title VII, §§ 706, 708, 709, 84 Stat. 462, 463; Dec. 31, 1970, Pub. L. 91-609, title VII, § 727(d), title IX, § 907(b), (c), 84 Stat. 1803, 1811; June 23, 1972, Pub. L. 92-318, title I, § 133(c)(3), 86 Stat. 270; Aug. 16, 1973, Pub. L. 93-100, § 5(b), 87 Stat. 343; Aug. 22, 1974, Pub. L. 93-383, Title VII, §§ 702-706, Title VIII, §§ 802(i)(2), 805(c)(4), 88 Stat. 715, 716, 725, 727; Oct. 18, 1974, Pub. L. 93-449, § 4(d), 88 Stat. 1367; Oct. 28, 1974, Pub. L. 93-495, title I, § 101(e), 88 Stat. 1502; July 25, 1975, Pub. L. 94-60, 89 Stat. 301; Aug. 3, 1976, Pub. L. 94-375, § 22, 90 Stat. 1078.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (c) and (d)(14), which is classified generally to chapter 13 (§ 1701' et seq.) of this title, is act June 27, 1934, ch. 847, 48 Stat. 1246. For complete classification of this Act to the Code, see References in Text note set out under section 1701 of this title and Tables volume.

The Servicemen's Readjustment Act of 1944, as amended, referred to in subsec. (c), was repealed by section 14(87) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1273, the first section of which enacted Title 38, Veterans' Benefits, and is now covered by chapter 37 (§ 1801 et seq.) of Title 38.

Title I of the National Housing Act, referred to in subsec. (c), is classified to subchapter I (§ 1702 et seq.) of chapter 13 of this title.

Title II of the National Housing Act, referred to in subsec. (c), is classified to subchapter II (§ 1707 et seq.) of chapter 13 of this title.

Title X of the National Housing Act, referred to in subsec. (c), is classified to subchapter IX-A (§ 1749aa et seq.) of chapter 13 of this title.

Section 224 of such Act [22 U.S.C. 2184], meaning section 224 of the Foreign Assistance Act of 1961, referred to in subsec. (c), which related to housing projects in Latin American countries, was eliminated in the general amendment made by section 105 of the Foreign Assistance Act of 1969 (Pub. L. 91-175), and is now covered by section 222 of such Act [22 U.S.C. 2182].

Title IV of the Housing and Urban Development Act of 1968, referred to in subsec. (c), is classified to chap-

ter 48 (§ 3901 et seq.) of Title 42, The Public Health and Welfare.

Part B of the Urban Growth and New Community Development Act of 1970, referred to in subsec. (c), is classified to Part B (§ 4511 et seq.) of chapter 59 of Title 42.

Title IX of the Housing and Urban Development Act of 1968, referred to in subsec. (c), is classified to chapter 49 (§ 3931 et seq.) of Title 42.

The Federal Rules of Civil Procedure, referred to in subsec. (d), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Home Loan Bank Act, referred to in subsecs. (d)(14) and (f), is act July 22, 1932, ch. 522, 47 Stat. 725, and is classified generally to chapter 11 (§ 1421 et seq.) of this title. For complete classification of this Act to the Code, see section 1421 of this title and Tables volume.

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-375 inserted, in cl. (2) of the twelfth paragraph, "and in the share capital and capital reserve of the Inter-American Savings and Loan Bank" following "made pursuant to either of such sections".

1975—Subsec. (c). Pub. L. 94-60 in seventeenth par. struck out "or section 408(a)" following "under section 401(d)", and added "and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code" following "Code of 1954", and "or account" following "funds of such trust".

1974—Subsec. (b)(2). Pub. L. 93-495 added "may be surety as defined by the Board" following "security,".

Subsec. (c). Pub. L. 93-383, §§ 703, 805(c)(4), in first par. increased limitation from $45,000 for each single-family dwelling to $55,000, except that with respect to Alaska, Guam, and Hawaii the limitation may be increased by not more than 50 per centum by regulation of the Board, and added reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

Pub. L. 93-383, § 705, in second and third pars. substituted "$10,000" for "$5,000".

Pub. L. 93-383, § 802(i)(2), in twelfth par. added reference to section 802 of the Housing and Community Development Act of 1974.

Pub. L. 93-449 in the seventeenth par. added reference to section 408(a) of title 26. As enacted section 4(d) of Pub. L. 93-449 amended the nineteenth par.; however the amendment was executed to seventeenth par. editorially since this would appear to be the probable intent of Congress.

Pub. L. 93-383, § 702, added par. authorizing associations to invest an amount not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 3 per centum of its assets, in loans or in interests therein.

Pub. L. 93-383, § 704, added par. authorizing associations to invest in loans and advances of credit and interests therein upon the security of or respecting real property or interests therein.

Pub. L. 93-383, § 706, added par. authorizing association to borrow funds from a State mortgage finance agency of the State in which the head office of such association is situated.

1973—Subsec. (c). Pub. L. 93-100 added paragraph authorizing associations with general reserves, surplus, and undivided profits aggregating in excess of 5% of their withdrawable accounts to invest in, to lend to, or to commit themselves to lend to state housing corporations incorporated in the state in which the head office of the association is located with certain limitations.

1972—Subsec. (c). Pub. L. 92-318 authorized in second proviso investments in obligations or other instruments or securities of the Student Loan Marketing Association.

1970—Subsec. (c), first par. Pub. L. 91-609, § 907(c), increased aggregate amount of authorized investments from 15 to 20 per centum of assets of the association.

Pub. L. 91-351, §§ 706, 709, in first par., added "or within the State in which such home office is located" following "their home office", and substituted "$45,000" for "$40,000" in the first proviso, and "section" for "proviso" in the second proviso.

Pub. L. 91-351, § 708, added par. authorizing any association to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan qualifying for specific tax treatment under section 401(d) of title 26.

Pub. L. 91-609, §§ 727(d), 907(b), in twelfth par., authorized associations to invest in loans or obligations guaranteed under part B of the Urban Growth and New Community Development Act of 1970, and extended authority to make certain investments to acquisition, holding, and disposition of loans, or interests therein, having benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty, respectively.

1969—Subsec. (c). Pub. L. 91-152 added the provision authorizing any association to invest in stock issued by a corporation created pursuant to title IX of the Housing and Urban Development Act of 1968, and to invest in any partnership, etc., formed pursuant to section 907(a) or 907(c) of the Housing and Urban Development Act of 1968.

1968—Subsec. (b). Pub. L. 90-448, § 1716(a), eliminated provisions which permitted associations to raise their capital only in the form of payments on shares and which prohibited acceptance of deposits or issuance of certificates of indebtedness except for borrowed money, and inserted provisions permitting an association to raise capital in the form of savings deposits, shares, or other accounts and to issue passbooks, time certificates of deposit, or other evidence of savings accounts, requiring holders of savings accounts and obligors to be members of the association, providing for notice for payment of any savings account, and for payment of withdrawals, prohibiting negotiable or transferable orders or authorization for checks or withdrawals or transfers, and empowering the associations to borrow, give security, and issue such notes, bonds, debentures, or other obligations or other securities (except capital stock) as the Board may authorize.

Subsec. (c). Pub. L. 90-505 allowed an association to invest in any investment which, at the time of the making of the investment, was an asset eligible for inclusion toward satisfaction of any liquidity requirement imposed on the association by section 1425a of this title but only to the extent that the investment was permitted to be so included under regulations issued by the Board or otherwise authorized.

Pub. L. 90-575 amended third par. (as designated prior to amendment by Pub. L. 90-448) to add vocational education expenses to the list of expenses for the payment of which associations are authorized to invest in loan, obligations and advances of credit.

Pub. L. 90-448, § 304(b), inserted paragraph permitting an association to invest in loans or obligations, or interests therein, as to which the association has the benefit of insurance under section 1715z-5 of this title, or of a commitment or agreement therefor.

Pub. L. 90-448, § 416(c), inserted sentence permitting an association to invest in loans or obligations, or interests therein, as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968, as now or hereafter in effect, or of a commitment or agreement therefor.

Pub. L. 90-448, § 804(e), inserted paragraph authorizing any such association to issue and sell securities which are guaranteed pursuant to section 1721(g) of this title.

Pub. L. 90-448, § 807(m), amended first par. to authorize investments in obligations, participations, or other instruments of or issued by, or guaranteed as to princi-

pal and interest by, the Government National Mortgage Association, and in stock of the Federal National Mortgage Association.

Pub. L. 90-448, § 1716(b), in first par., substituted "security of their savings accounts" for "security of their shares", and inserted provisions authorizing investment in time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

Pub. L. 90-448, § 1716(c), inserted provisions in second par. permitting loans for the construction of new structures related to residential use of the property.

Pub. L. 90-448, § 1716(d), inserted third par. authorizing loans, or investment in loans, not exceeding $5,000 for repair, equipping, alteration, or improvement of real property, or for mobile home financing.

Pub. L. 90-448, § 1716(e), amended par. relating to loans secured by mortgages insured under Title X of the National Housing Act, to permit an association to acquire and hold investments in housing project loans, or interests therein, having the benefit of any guaranty under section 2181 of title 22, to include commitments or agreements with respect to loans, or interests therein, made pursuant to either section 2181 or 2184 of title 22, and to eliminate provisions which stated that investments in loans secured by mortgages insured under Title X of the National Housing Act shall not be included in any percentage of assets or other percentage referred to in this subsection, and that investments in loans guaranteed under section 2184 of title 22 shall not be more than 1 per centum of the assets of the association.

Pub. L. 90-448, § 1716(f), inserted par. permitting an association to invest in loans, or interests in loans, to financial institutions with respect to which the United States or any agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which it has any statutory authority to invest directly.

1966—Subsec. (d). Pub. L. 89-695 amended provisions generally, substituting pars. (1) to (14) for former pars. (1) (consisting of thirteen sentences) and (2) (consisting of eleven sentences), such pars. (2) to (5), (7) to (10), (12)(A)(B), (13), and (14) being new provisions.

1965—Subsec. (c). Pub. L. 89-117 added par. which permitted an association to invest in loans (1) secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (2) guaranteed by the President under section 2184 of title 22, and prohibited investments under cl. (2) to exceed 1 per centum of the assets of such association, provided that, for purposes of this subsection, "other dwelling units" would include living accommodations for students, employees, or staff members of a college, or university, or hospital, reduced from 15 to 10 years the time by which a lease period must extend beyond the maturity date of the debt in order that a leasehold interest qualify as "real property" or "real estate" within this section, and added par. which prohibited any District of Columbia building and loan associations from establishing a branch or moving its principal office without the prior written approval of the Federal Home Loan Bank Board and forbade any other building and loan associations from establishing a branch office in the District or moving its principal office in the District without such approval.

1964—Subsec. (c). Pub. L. 88-560, §§ 901(a), 902-905, 907, 908, 910, amended the provisions as follows:

Section 901(a) substituted "one hundred miles" for "fifty miles" in the first sentence.

Section 902 substituted "$40,000" for "$35,000" in the first proviso of the first paragraph and deleted from the end of such first proviso ", except that the aggregate sums invested pursuant to the two exceptions in this proviso shall not exceed 30 per centum of the assets of such association".

Section 903 substituted provisions which authorized the association to invest not more than 5 per centum of its assets in, or in interests in, real property located within urban renewal areas and obligations secured by first liens on real property so located but limited the aggregate of such investments to 2 per centum of the assets of the association for former provisions which authorized the association to invest not more than 5 per centum of its assets in certificates of beneficial interest issued by any urban renewal investment trust, defined an "urban renewal investment trust", and provided for rules and regulations to be prescribed by the Federal Home Loan Bank Board for the establishment, operation, etc. of such urban renewal investment trusts.

Section 904 added paragraph which defined "real property" and "real estate".

Section 905 added paragraph which authorizes an association to invest its assets in a corporation organized in the State where the association's home office is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations chartered in that State and Federal associations having their home offices therein but limited the aggregate of such investments to 1 per centum of its assets.

Section 907 inserted in the second proviso of the first paragraph ", or fully guaranteed as to principal and interest by,", authorized an association to invest in participations or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or any other agency of the United States, and defined the term "State".

Section 908 substituted in the first sentence of the second paragraph "20 per centum" and "$5,000" for "15 per centum" and "$3,500", respectively.

Section 910 inserted after the second paragraph the paragraph which authorized the association to invest in loans, obligations, and advances of credit made for the payment of expenses of college or university education but limited such investments to 5 per centum of the assets of the association.

1962—Subsec. (c). Pub. L. 87-779, in first paragraph, substituted provisions authorizing loans on the security of first liens upon real property within fifty miles of their home office which constitute first liens upon homes, combinations of homes and business property, other dwelling units, or combinations of dwelling units, including homes, and business property involving only minor or incidental business use, for provisions which permitted loans on the security of first liens upon homes or combination of homes and business property within fifty miles of their home office, and provisions limiting the amount of loan on the security of first liens to not more than $35,000 for each single-family dwelling, and not more than such amount per room as the Board may determine within the limits allowable in section 1713(c)(3) of this title for any other dwelling unit, for provisions which limited the amount of the loan to not more than $35,000 on the security of a first lien upon a home or combination of home and business property, inserted provisions requiring the Board to limit by regulation to not more than 15 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property, changed provisions which permitted use of additional sums not exceeding 20 per centum of the assets of the association without regard to area restriction for the making or purchase of participating interests in first liens on one- to four-family homes to permit use of such sums for the making or purchase of participating interests in real property of the type described in the opening provisions of this subsection, and substituted "dollar amount limitation" for "$35,000 limitation" in the fourth paragraph.

Subsec. (h). Pub. L. 87-834 eliminated provisions which exempted such associations, including their franchises, capital, reserves, and surplus, and their loans and income, and all shares of such associations both as to their value and the income therefrom, from all taxation imposed by the United States.

1961—Pub. L. 87-70 inserted provisions in the second paragraph authorizing investments in home improvement loans insured under subchapter II of chapter 13 of this title, and added the former fourth, fifth, sixth and seventh paragraphs (now sixth, seventh, eighth, and ninth) authorizing investments in non-amortized loans which are made on the security of first liens upon homes or combinations of homes and business property, in amortized loans or participating interests therein which are secured by first liens upon improved real estate used to provide housing facilities for the aging, in certificates of beneficial interest issued by any urban renewal investment trust, and permitting associations to invest in, to lend to, or to commit themselves to lend to any business development credit corporation incorporated in the State in which the head office of the association is situated.

1960—Subsec. (d)(1). Pub. L. 86-507 inserted "or by certified mail," following "registered mail,".

1959—Subsec. (c). Pub. L. 86-372 permitted the use of additional sums not exceeding 20 per centum of the assets of an association without regard to the area restriction for the making or purchase of participating interests in first liens on one- to four-family homes, limited the aggregate sums invested pursuant to the two exceptions to not more than 30 per centum of the assets of the association, provided that participating interests in loans secured by mortgages which have the benefit of insurance or guaranty (or a commitment therefor) under the National Housing Act, the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38, shall not be taken into account in determining the amount of loans which an association may make within any of the percentage limitations contained in the first proviso, and authorized any association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts to invest an amount not exceeding at any one time 5 per centum of such withdrawable accounts in loans to finance the acquisition and development of land for primarily residential usage.

1958—Subsec. (c). Pub. L. 85-857 inserted ", or chapter 37 of Title 38" following "Servicemen's Readjustment Act of 1944, as amended" in two instances.

1956—Subsec. (c). Act Aug. 7, 1956, substituted "20 per centum" for "15 per centum" in the first sentence, and "$3,500" for "$2,500" in the proviso at the end of the second par.

1955—Subsec. (c). Act Aug. 11, 1955, removed the limitation of $2,500 from insured or guaranteed loans.

1954—Subsec. (c). Act Aug. 2, 1954, §§ 204(b), 503(1), (3), amended provisions as follows: section 204(b) inserted the reference to obligations of the Federal National Mortgage Association in the second proviso of the first par.; section 503(1), (3), substituted "$35,000" for "$20,000" in two places in the first par. and increased from $1,500 to $2,500 the maximum amount of an unsecured loan in which a Federal savings and loan association may invest in the second par.

Subsec. (d). Act Aug. 2, 1954, § 503(2), amended provisions generally to provide a means by administrative and court proceedings whereby the Board may enforce compliance with law and regulations by Federal savings and loan associations in cases where the Board felt that the appointment of a conservator or receiver was not necessary or desirable; and to set out the grounds, and provide the procedure, for the appointment of conservators, receivers, and supervisory representatives.

1952—Subsec. (c). Act July 14, 1952, added penultimate sentence to first par.

1951—Subsec. (h). Act Oct. 20, 1951, inserted "date, and except, in the case of taxable years beginning after December 31, 1951, income, war-profits, and excess-profits taxes".

1948—Subsec. (i). Act July 3, 1948, permitted any Federal savings and loan association to convert into a savings and loan type of organization or a mutual savings bank pursuant to the law of the State in which the principal office of the association is located.

1947—Subsec. (c). Act Aug. 6, 1947, liberalized the provisions with respect to loans made by Federal savings and loan associations.

1939—Subsec. (h). Act Aug. 10, 1939, inserted exception contained within the first parentheses.

1935—Subsec. (c). Act May 28, 1935, added last proviso.

1934—Subsecs. (i) to (k). Act Apr. 27, 1934, amended subsec. (i) and added subsecs. (j) and (k).

Change of Name

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955, § 109(a)(3).

"Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" in subsec. (j) of this section by 1947 Reorg. Plan No. 3. See Transfer of Functions note under section 1462 of this title.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-495 effective on the thirtieth day beginning after Oct. 28, 1974, see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

Effective Date of 1973 Amendment

Amendment by Pub. L. 93-100 effective Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as a note under section 1469 of this title.

Effective Date of 1968 Amendment

For effective date of amendment by title VIII of Pub. L. 90-448 see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

Effective Date of 1966 Amendment

Section 101(b) of Pub. L. 89-695 provided that: "The amendment made by subsection (a) of this section [to subsec. (d) of this section] shall be effective only with respect to proceedings commenced on or after the date of enactment of this Act [Oct. 16, 1966]. Section 5(d) of the Home Owners' Loan Act of 1933 [this section] as in effect immediately prior to the date of enactment of this Act [Oct. 16, 1966] shall continue in effect with respect to any proceedings commenced prior to such date."

Expiration of 1966 Amendment

Pub. L. 91-609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811, repealed section 401 of Pub. L. 89-695 which had provided that: "The provisions of titles I and II of this Act [amending sections 1464, 1730, 1813, 1817 to 1820 and repealing section 77 of this title and enacting provisions set out as notes under sections 1464, 1730, and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted."

Effective Date of 1962 Amendment

Section 6(g)(4) of Pub. L. 87-834 provided that:

"Subsection (e) of this section [amending section 4382(a)(2) of Title 26, Internal Revenue Code and section 1464(h) of this title] shall become effective on January 1, 1963, except that—

"(A) in the case of the tax imposed by section 4251 of the Internal Revenue Code of 1954 [section 4251 of title 26], such subsection shall apply only with respect to amounts paid pursuant to bills rendered after December 31, 1962; and

"(B) in the case of the tax imposed by section 4261 of such Code [section 4261 of title 26], such subsection shall apply only with respect to transportation beginning after December 31, 1962."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding Part 1 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1951 AMENDMENT

Amendment of subsec. (h) made applicable only with respect to taxable years beginning after Dec. 31, 1951, by section 313(j) of act Oct. 20, 1951.

SHORT TITLE OF 1974 AMENDMENT

Section 701 of Pub. L. 93-383 provided that: "This title [which amended this section and sections 371, 1757, 1759, 1761b, 1761d, 1763, 1772, 1782, 1786, and 1788 of this title] may be cited as the 'Consumer Home Mortgage Assistance Act of 1974'."

SHORT TITLE

Section 1 of Pub. L. 89-695 provided: "That this Act [amending sections 1464, 1724, 1728, 1730, 1730a, 1813, and 1817 to 1821 of this title and repealing section 77 of this title and enacting provisions set out as notes under sections 1464, 1724, 1730, and 1813 of this title] may be cited as the 'Financial Institutions Supervisory Act of 1966'."

ABOLISHMENT OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of the Home Owners' Loan Corporation, referred to in this section, by act June 30, 1953, ch. 170, § 21, 67 Stat. 126, see note under section 1463 of this title.

TREATY OBLIGATIONS

Section 615 of act Oct. 20, 1951, provided that: "No amendment made by this Act shall apply in any case where its application would be contrary to any treaty obligation of the United States."

CROSS REFERENCES

Declaratory judgments, see sections 2201 and 2202 of Title 28, Judiciary and Judicial Procedure.

Definition of State and State housing corporation, see section 1470 of this title.

Enforcement by the Federal Home Loan Bank Board of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, in the case of institutions subject to subsec. (d) of this section, see section 1607 of Title 15.

Investment in shares or accounts of Federal savings and loan associations by Federal credit unions, see section 1757 of this title.

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

FEDERAL RULES OF CIVIL PROCEDURE

Declaratory judgments, see rule 57, Title 28, Appendix, Judiciary and Judicial Procedure.

Injunctions, see rule 65 of Title 28, Appendix.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1454, 1462, 1465, 1466a, 1717, 1725, 1729, 2804, 2805 of this title; title 15 sections 18a, 1607, 1681s, 1691c.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 35-1321 of the District of Columbia Code.

§ 1465. Encouragement of saving and home financing

To enable the Board to encourage local thrift and local home financing and to promote, organize, and develop the associations herein provided for or similar associations organized under local laws, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $150,000, to be immediately available and remain available until expended, subject to the call of the Board, which sum, or so much thereof as may be necessary, the Board is authorized to use in its discretion for the accomplishment of the purposes of this section without regard to the provisions of any other law governing the expenditure of public funds. For the purposes of this section the Secretary of the Treasury is authorized and directed to allocate and make immediately available to the Board, out of the funds appropriated pursuant to section 1464(g) of this title, the sum of $700,000. Such sum shall be in addition to the funds appropriated pursuant to this section, and shall be subject to the call of the Board and shall remain available until expended. The sums appropriated and made available pursuant to this section shall be used impartially in the promotion and development of local thrift and home-financing institutions, whether State or Federally chartered.

(June 13, 1933, ch. 64, § 6, 48 Stat. 134; Apr. 27, 1934, ch. 168, § 11, 48 Stat. 647; May 28, 1935, ch. 150, § 19, 49 Stat. 297.)

AMENDMENTS

1935—Act May 28, 1935, substituted "$700,000" for "$500,000" in second sentence, and added last sentence.

1934—Act Apr. 27, 1934, added second and third sentences.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 35-1321 of the District of Columbia Code.

§ 1466. Territorial application

The provisions of this chapter shall apply to the continental United States (including Alaska), to the State of Hawaii, and to Puerto Rico, Guam and the Virgin Islands.

(June 13, 1933, ch. 64, § 7, 48 Stat. 134; July 14, 1952, ch. 723, § 10(b), 66 Stat. 604; June 25, 1959, Pub. L. 86-70, § 9(b), 73 Stat. 142; July 12, 1960, Pub. L. 86-624, § 5(b), 74 Stat. 411.)

AMENDMENTS

1960—Pub. L. 86-624 substituted "State of Hawaii" for "Territory of Hawaii".

1959—Pub. L. 86-70 substituted "continental United States (including Alaska), to the Territory of Hawaii" for "continental United States, to the Territories of Alaska and Hawaii".

1952—Act July 14, 1952, inserted "Guam".

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 35-1321 of the District of Columbia Code.

§ 1466a. District of Columbia Savings and Loan Associations

(a) Powers and functions of Board as to examination, operation, and regulation; enforcement provisions

Without regard to any provision of law other than this section, and without limitation on any other power or function now or hereafter

vested in or exercisable by the Federal Home Loan Bank Board by or under this chapter or otherwise, the Board shall, with respect to all incorporated or unincorporated building, building or loan, building and loan or homestead associations, and similar institutions, of or transacting or doing business in the District of Columbia, or maintaining any office in the District of Columbia (other than Federal savings and loan associations), have the same powers and functions as to examination, operation, and regulation as are now or hereafter vested in or exercisable by it with respect to Federal savings and loan associations by or under section 1464 of this title or otherwise, and all of the provisions of subsection (d) of section 1464 of this title as now or hereafter in force shall be applicable with respect to such associations, or institutions.

(b) Statutory authorities

Any such association or institution incorporated under the laws of, or organized in, the District of Columbia shall have in addition to any existing statutory authority such statutory authority as is from time to time vested in Federal savings and loan associations.

(c) Amendment of organic documents; voting

Charters, certificates of incorporation, articles of incorporation, constitutions, bylaws, or other organic documents of associations or institutions referred to in subsection (b) of this section may, without regard to anything contained therein or otherwise, hereafter be amended in such manner and to such extent and upon such vote or votes if any as the Federal Home Loan Bank Board may by regulation or otherwise provide.

(d) Conversion into Federal Savings and Loan Associations; same regulations for District and Federal Associations

Nothing herein shall cause, or permit the Federal Home Loan Bank Board to cause, District of Columbia associations to be or become Federal savings and loan associations, or require the Board to impose on District of Columbia associations the same regulations as are imposed on Federal savings and loan associations.

(June 13, 1933, ch. 64, § 8, as added Dec. 31, 1970, Pub. L. 91-609, title IX, § 913, 84 Stat. 1815.)

CODIFICATION

Section is also set out in D.C. Code, § 26-401 note.

§ 1467. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts June 13, 1933, ch. 64, § 8, 48 Stat. 134; Apr. 27, 1934, ch. 168, § 12, 48 Stat. 647; May 28, 1935, ch. 150, §§ 20, 21, 49 Stat. 298, related to penalties and is covered by sections 223, 433, 493, 657, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

§ 1468. Separability clause

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(June 13, 1933, ch. 64, § 9, 48 Stat. 135; Apr. 27, 1934, ch. 168, § 15, 48 Stat. 647.)

AMENDMENTS

1934—Act Apr. 27, 1934, reenacted section without change.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 35-1321 of the District of Columbia Code.

§ 1469. Authority to invest in state housing corporations

The Congress finds that Federal savings and loan associations and national banks should have the authority to assist in financing the organization and operation of any State housing corporation established under the laws of the State in which the corporation will carry on its operation. It is the purpose of this section to provide a means whereby private financial institutions can assist in providing housing, particularly for families of low- or moderate-income, by purchasing stock of and investing in loans to any such State housing corporation situated in the particular State in which the Federal savings and loan association or national bank involved is located.

(Pub. L. 93-100, § 5(a), Aug. 16, 1973, 87 Stat. 343.)

REFERENCES IN TEXT

This section, referred to in text, means section 5 of Pub. L. 93-100, which enacted this section and section 1470 of this title and amended sections 24 and 1464 of this title.

CODIFICATION

Section was not enacted as part of the Home Owners' Loan Act of 1933 which comprises this chapter.

EFFECTIVE DATE

Section 8 of Pub. L. 93-100 provided that: "The provisions of this Act [enacting this section and sections 1470 and 1832 of this title, amending sections 24, 461 note, 1464, 1725, 1727 and 1828 of this title, and enacting provisions set out as notes under section 548 of this title] shall take effect on the thirtieth day after the date of its enactment [Aug. 16, 1973], except that the amendments made by sections 1 and 5 [enacting sections 1469 and 1470 of this title and amending sections 24, 461 note, and 1464 of this title] shall take effect on the date of enactment of this Act [Aug. 16, 1973]."

CROSS REFERENCES

Definition of State and State housing corporation, see section 1470 of this title.

§ 1470. Federal supervision of insured institutions, State member and nonmember banks; access to information; definitions

(a)(1) The Federal Savings and Loan Insurance Corporation with respect to insured institutions, the Board of Governors of the Federal Reserve System with respect to State member insured banks, and the Federal Deposit Insurance Corporation with respect to State nonmember insured banks shall by appropriate rule, regulation, order, or otherwise regulate investment in State housing corporations.

(2) A State housing corporation in which financial institutions invest under the authority

of this section shall make available to the appropriate Federal supervisory agency referred to in paragraph (1) such information as may be necessary to insure that investments are properly made in accordance with this section.

(b) For the purposes of this section and any Act amended by this section—

(1) The term "insured institution" has the same meaning as in section 401(a) of the National Housing Act [12 U.S.C. 1724(a)].

(2) The terms "State member insured banks" and "State nonmember insured banks" have the same meaning as when used in the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(3) The term "State housing corporation" means a corporation established by a State for the limited purpose of providing housing and incidental services, particularly for families of low or moderate income.

(4) The term "State" means any State, the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

(Pub. L. 93-100, § 5(d), (e), Aug. 16, 1973, 87 Stat. 344.)

REFERENCES IN TEXT

This section, referred to in subsec. (a)(2), refers to section 5 of Pub. L. 93-100, which enacted this section and section 1469 of this title and amended sections 24 and 1464 of this title.

This section and any Act amended by this section, referred to in subsec. (b), are this section and sections 24 par. Seventh, 1464(c), and 1469 of this title.

The Federal Deposit Insurance Act, also referred to in subsec. (b), is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title.

CODIFICATION

Section was not enacted as part of the Home Owners' Loan Act of 1933, which comprises this chapter.

Subsecs. (d) and (e) of section 5 of Pub. L. 93-100 have been designated subsecs. (a) and (b) for purposes of codification.

EFFECTIVE DATE

Section effective Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as a note under section 1469 of this title.

CHAPTER 13—NATIONAL HOUSING

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 371, 1430, 1454, 1464, 1701z-7, 1709a, 2710 of this title; title 7 section 1933; title 11 sections 663, 917; title 15 section 77ddd; title 38 section 1804; title 40 section 474, title 42 sections 1437f, 3012; title 48 section 1425.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 28-3307, 35-535 of the District of Columbia Code.

§ 1701. Short title

This chapter may be cited as the "National Housing Act."

(June 27, 1934, ch. 847, 48 Stat. 1246.)

REFERENCES IN TEXT

In the original, "this chapter" read "this Act," the National Housing Act. Such Act enacted this chapter, except sections 1701a to 1701z-6, 1706e, 1709-1 to 1709b, 1716b, 1717a, 1735g, 1749 to 1749d, and former sections 1131g-1 and 1430a of this title; former section 609k of Title 15, Commerce and Trade; sections 1594, 1594 note, 1594a, and 1594b to 1594e of Title 42, the Public Health and Welfare; and former sections 484d,

723, 724, section 1425, and former section 1426 of Title 48, Territories and Insular Possessions; and section 1830 and former sections 1883 and 1909 of Appendix to Title 50, War and National Defense; and amended sections 24, 371, 1422, 1430, 1431 [applicable part eliminated], 1462, and former section 1463 of this title; former section 206 [now covered in section 433] of Title 18, Crimes and Criminal Procedures; section 22 of Title 41, Public Contracts; section 1594i and former section 1855a of Title 42; and section 22 of Title 49, Transportation.

SHORT TITLE OF 1976 AMENDMENTS

Pub. L. 94-375, § 1, Aug. 3, 1976, 90 Stat. 1067, provided that: "This Act [which enacted section 1701z-7 of this title, amended sections 1464, 1701j-2, 1701q, 1701z-1 to 1701z-3, 1706e, 1713, 1715e, 1715k, 1715*l*, 1715v, 1715y, 1715z, 1715z-1, 1715z-6, 1715z-9, 1715z-10, 1723, 1723a, 1723e, 1735b, 1735c, 2708, 2709, and 2710 of this title, section 5315 of Title 5, section 461 of Title 40, sections 1437a, 1437c, 1437f, 1437g, 1452b, 1480, 1490, 1490a, 3535, 4056, 4106, 4127, 4521, 5303, 5305, 5307, and 5316 of Title 42, enacted provisions set out as notes under sections 1437c and 1723e of this title, section 461 of Title 40, and section 1382 of Title 42, and amended provisions set out as notes under sections 1715e and 1723e of this title] may be cited as the 'Housing Authorization Act of 1976'."

SHORT TITLE OF 1975 AMENDMENTS

Pub. L. 94-13 § 1, Apr. 8, 1975, 89 Stat. 68, provided: "That this Act [amending section 1749bbb of this title (b)(1) and enacting provisions set out as a note under section 1749bbb of this title] may be cited as the 'National Insurance Development Act of 1975'."

SHORT TITLE OF 1974 AMENDMENTS

Pub. L. 93-449, § 1, Oct. 18, 1974, 88 Stat. 1364, provided that: "This Act [enacting section 1723e of this title, amending sections 347b, 1430, 1464, 1703, and 1709 of this title, enacting provisions set out as notes under section 1723e of this title, and amending note set out under section 1904 of this title] may be cited as the 'Emergency Home Purchase Assistance Act of 1974'."

SHORT TITLE OF 1970 AMENDMENTS

Pub. L. 91-609, § 1, Dec. 31, 1970, 84 Stat. 1770, provided: "That this Act [which enacted sections 1466a, 1701z-1 to 1701z-4, 1709-2, 1735f-2, 1749bbb-6a, and 1749bbb-10a to 1749bbb-10d of this title; sections 694a and 694b of Title 15, Commerce and Trade; and chapter 59 (§§ 4501 et seq. and 4511 et seq.) of Title 42, The Public Health and Welfare; amended sections 371, 1431, 1432, 1464, 1701s, 1701x, 1703, 1712, 1715c, 1715e, 1715h, 1715*l*, 1715z, 1715z-1, 1715z-3, 1715z-6, 1715z-7, 1717, 1718, 1730a, 1735b to 1735d, 1748h-1, 1748h-2, 1749, 1749bb, 1749cc, 1749aaa, 1749bbb, 1749bbb-2, 1749bbb-7, 1749bbb-8, 1749bbb-11 to 1749bbb-15, 1813, and 1817 of this title; sections 692 to 694 and 1705 of title 15; section 617 of Title 16, Conservation; section 1014 of Title 18, Crimes and Criminal Procedure; section 803 of Title 20, Education; sections 461 and 484b of Title 40, Public Buildings, Property, and Works; and sections 1401, 1402, 1410, 1415, 1421b, 1453, 1456, 1458, 1460, 1465, 1471, 1474, 1478, 1484 to 1487, 1490, 1492, 1500 to 1500d-1, 3108, 3311, 3356, 3533, 3535, 3906, 3907, and 3911 of title 42; repealed sections 1701d-3 1701e, and 1701f of this title and sections 1436, 1452a, 3372, and 3373 of title 42; enacted provisions set out as notes under section 694a of title 15, and sections 1402, 1415, 1436, 1453, 1500 and 4501 of title 42; amended provisions set out as notes under sections 1701c, 1716b, and 1749bbb of this title; and repealed provisions set out as notes under sections 1464 and 1701e of this title and section 1456 of title 42] may be cited as the 'Housing and Urban Development Act of 1970'."

Pub. L. 91-351, § 1, July 24, 1970, 84 Stat. 450, provided: "That this Act [which enacted sections 1451 to 1459 and 1715z-8 of this title, and section 3941 of Title 42, The Public Health and Welfare, amended sections 82, 371, 1464, 1709-1, 1715z-3, 1717, 1719, 1720, 1726, 1730a, and 1749 of this title, and section 3906 of Title 42, and enacted provisions set out as notes under sections 1430, 1451, 1710, and 1715z-8 of this title, and section 1452 of Title 42] may be cited as the 'Emergency Home Finance Act of 1970'."

SHORT TITLE OF 1969 AMENDMENTS

Pub. L. 91-152, § 1, Dec. 24, 1969, 83 Stat. 379, provided: "That this Act [which enacted sections 806 and 807 of Title 20, Education, section 484b of Title 40, Public Buildings, Property, and Works, and sections 1490d and 4056 of Title 42, The Public Health and Welfare, amended sections 1425, 1464, 1701q, 1701s, 1701u, 1703, 1706d, 1707, 1709, 1709-1, 1713, 1715d, 1715e, 1715h, 1715k, 1715*l*, 1715m, 1715n, 1715v, 1715w, 1715y, 1715z, 1715z-1, 1715z-2, 1715z-3, 1717, 1720, 1727, 1748h-1, 1748h-2, 1749, 1749bb, 1749aaa, 1749bbb-8, 1749bbb-9, and 1749bbb-15 of this title, section 1702 of Title 15, Commerce and Trade, sections 801 to 805, and 811 of title 20, section 461 of title 40, sections 1402, 1409, 1410, 1414, 1415, 1421b, 1441c, 1451, 1452, 1452b, 1453, 1455, 1460, 1463, 1466, 1467, 1468, 1468a, 1469b, 1483, 1485, 1487, 1489, 1496, 1500a, 3102, 3108, 3311, 3356, 3371, 3372, 3911, 4001, 4012, 4022, 4102, and 4121, of title 42, and sections 1603 and 1604 of Title 49, Transportation, repealed section 1488 of title 42, and enacted material set out as notes under section 1727 of this title, and section 1402 of title 42] may be cited as the 'Housing and Urban Development Act of 1969'."

SHORT TITLE OF 1968 AMENDMENTS

Pub. L. 90-448, § 1, Aug. 1, 1968, 82 Stat. 476, provided: "That this Act [enacting sections 1701t to 1701z, 1715z to 1715z-7, 1716b and 1749bbb to 1749bbb-21 of this title, sections 1701 to 1720 of Title 15, Commerce and Trade, and sections 1417a, 1441a to 1441c, 1468a, 1469 to 1469c, 1490a to 1490c, 3533a, 3901 to 3914, 3931 to 3940, 4001, 4011 to 4027, 4041, 4051 to 4055, 4071, 4072, 4081 to 4084, 4101 to 4103, and 4121 to 4127 of Title 42, The Public Health and Welfare, amending sections 24, 371, 378, 1431, 1432, 1436, 1464, 1701d-4, 1701q, 1701s, 1703, 1709, 1709-1, 1715c, 1715e, 1715k to 1715o, 1715q, 1715r, 1715w to 1715y, 1716, 1717 to 1723a, 1723c, 1735c, 1735d, 1748h-2, 1749, 1749b, 1749c, 1749aaa and 1757 of this title, sections 5315 of Title 5, Government Organization and Employees, sections 633 and 636 of Title 15, section 709 of Title 18, Crimes and Criminal Procedure, sections 801, 802 and 805 of Title 20, Education, section 846 of Title 31, Money and Finance, section 1820 of Title 38, Veterans' Benefits, sections 461, 462 and 612 of Title 40, Public Buildings, Property and Works, section 207 of Title 40, Appendix, sections 1401, 1402, 1403, 1410, 1415, 1420, 1421b, 1436, 1451, 1452 to 1453, 1455, 1456, 1457, 1460, 1462, 1465 to 1468, 1483, 1484, 1492, 1500a, 1500d, 2414, 3101, 3102, 3104, 3108, 3311, 3331, 3332, 3335, 3336, 3338, 3356, 3372, 3534 and 3535 of Title 42, and sections 1603 to 1605 and 1608 of Title 49, Transportation, repealing sections 1417, 2401 to 2413 and 2415 to 2421 of Title 42, and note set out under section 2401 of Title 42, and enacting provisions set out as notes under this section and sections 1701c, 1709, 1709-1, 1715z, 1715z-1, 1716b, 1717, 1721 and 1749bbb of this title, section 7313 of Title 5, section 1701 of Title 15, and sections 1417, 1436, 1452, 1469, 3901 and 4001 of Title 42] may be cited as the 'Housing and Urban Development Act of 1968'."

Pub. L. 90-448, title XI, § 1101, Aug. 1, 1968, 82 Stat. 555, provided that: "This title [enacting subchapter IX-C of chapter 13 of this title and section 3533a of Title 42, The Public Health and Welfare, amending sections 1701s(c)(2)(E), 1709(h) and 1735d(b) of this title, section 5315 of Title 5, Government Organization and Employees, section 636 of Title 15, and section 1462 of Title 42, and enacting provisions set out as a note under section 7313 of Title 5] may be cited as the 'Urban Property Protection and Reinsurance Act of 1968'."

Pub. L. 90-255, § 1, Feb. 14, 1968, 82 Stat. 5, provided: "That this Act [amending section 1730a of this title] may be cited as the 'Savings and Loan Holding Company Amendments of 1967'."

SHORT TITLE OF 1966 AMENDMENTS

Pub. L. 89-429, § 1, May 24, 1966, 80 Stat. 164, provided: "That this act [enacting section 745 of Title 20, Education, amending sections 1717, 1720(c), 1749(d), and 1757(7) of this title, section 1988(c) of Title 7, Agriculture, and section 743(c) of Title 20, and enacting material set out as notes under this section and former section 262 of former Title 5, Executive Departments and Government Officers and employees] may be cited as the 'Participation Sales Act of 1966'."

SHORT TITLE OF 1965 AMENDMENTS

Pub. L. 89-117, § 1, Aug. 10, 1965, 79 Stat. 451, provided: "That this Act [enacting sections 1701s and 1735c to 1735h, and subchapter IX-A of chapter 13 of this title, subchapter IV-A of Title 15, Commerce and Trade, and sections 1421b, 1466 to 1468, 1500c-1, 1500c-2, 1500c-3, and 1487 to 1490, and chapters 36 and 37 of Title 42, The Public Health and Welfare, and provisions set out as notes under sections 1701d-3, 1701q, and 1749 of this title, section 462 of Title 40, Public Buildings, Property, and Works, and sections 1451, 1453, 1455, 1460, 1465, 1466, and 3074 of Title 42, amended sections 371, 1464, 1701q, 1701o, 1701h, 1702, 1703, 1706c, 1709, 1710, 1713, 1715, 1715c, 1715e, 1715h, 1715k, 1715*l*, 1715m, 1715n, 1715t, 1715v, 1715w, 1715x, 1715y, 1717, 1718, 1720, 1721, 1727, 1739, 1743, 1744, 1747*l*, 1747g, 1748b, 1748h, 1748h-1, 1748h-2, 1749, 1749c, 1750, 1750c, and 1750g of this title, sections 633 and 671 of Title 15, sections 802 and 803 of Title 20, Education, sections 1804 and 1816 of Title 38, Veterans' Benefits, sections 461 and 462 of Title 40, sections 1402, 1410, 1412, 1415, 1421a, 1422, 1451, 1452, 1452b, 1453, 1455, 1456, 1460, 1463, 1465, 1471, 1472, 1476, 1481, 1482, 1483, 1485, 1492, 1500, 1500a, 1500b, 1500c, 1500d, and 1500e of Title 42, and sections 1605 and 1608 of Title 49, Transportation, and repealed sections 1715j, 1737, 1740, 1747i, 1748a, 1748c, 1750a and 1750d of this title] may be cited as the 'Housing and Urban Development Act of 1965'."

SHORT TITLE OF 1964 AMENDMENTS

Pub. L. 88-560, § 1, Sept. 2, 1964, 78 Stat. 769, provided: "That this act [which enacted sections 1730b, 1735a, and 1735b of this title, sections 801 to 805 and 811 of Title 20, Education, and sections 1452b, 1465, and 1486 of Title 42, The Public Health and Welfare, amended sections 24, 371, 1430, 1431, 1436, 1464, 1701q, 1703, 1709, 1710, 1713, 1715c, 1715e, 1715k to 1715n, 1715r, 1715u to 1715y, 1717, 1719 to 1721, 1723b, 1723c, 1726, 1739, 1748h-2, 1749c, and 1750c of this title, sections 636 and 637 of Title 15, Commerce and Trade, sections 1820 and 1823 of Title 38, Veterans' Benefits, sections 461 and 462 of Title 40, Public Buildings, Property and Works, and sections 1402, 1410, 1415, 1436, 1451, 1452, 1452a, 1453, 1455, 1456, 1457, 1460, 1476, 1481 to 1483, 1485, 1492, 1500a, and 1504a of Title 42, and enacted provisions set out as notes under section 1713 of this title, section 461 of Title 40, and sections 1415, 1451, 1455, 1460, and 1465 of Title 42] may be cited as the 'Housing Act of 1964'."

SHORT TITLE OF 1962 AMENDMENTS

Pub. L. 87-723, § 1, Sept. 28, 1962, 76 Stat. 670, provided: "That this Act [enacting this section and section 1485 of Title 42, The Public Health and Welfare, and amending sections 84 and 1701q of this title and sections 1471, 1472, 1474, 1476 and 1481 of Title 42] may be cited as the 'Senior Citizens Housing Act of 1962.'"

SHORT TITLE OF 1961 AMENDMENTS

Pub. L. 87-70, § 1, June 30, 1961, 75 Stat. 149, provided that Pub. L. 87-70, which enacted sections 1715x and 1715y of this title and sections 1436, 1484, 1497 and 1500 to 1500e of Title 42, The Public Health and Welfare, amended sections 371, 1464, 1701c, 1701q, 1703, 1709, 1710, 1713, 1715, 1715c, 1715e, 1715h, 1715j, 1715k, 1715*l*, 1715n, 1715o, 1715q, 1715r, 1715t, 1715v, 1715w, 1717, 1718, 1719, 1720, 1721, 1723a, 1723b, 1748b, 1748h-2, 1749, 1749b, 1749c, and 1750jj of this title, section 631, 633 and 636 of Title 15, Commerce and Trade, sections 461 and 462 of Title 40, Public Buildings, Property, and Works, and sections 1402, 1410, 1415, 1421, 1421a, 1434, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1460, 1463, 1471, 1472, 1476, 1477, 1478, 1481, 1482, 1483, 1491, 1492, 1493, and 1594i of title 42, and amended provisions set out as a note under section 1592c of title 42, may be cited as the "Housing Act of 1961."

SHORT TITLE OF 1959 AMENDMENTS

Pub. L. 86-372, § 1, Sept. 23, 1959, 73 Stat. 654, provided that Pub. L. 86-372, which enacted sections 1701q, 1715t to 1715w, and 1748-2 of this title, and section 1463 of Title 42, The Public Health and Welfare, amended sections 24, 1464, 1703, 1706c, 1709, 1710, 1713, 1715c to 1715e, 1715h, 1715k-1715m, 1715r, 1717, 1719 to 1721, 1723b, 1731a, 1747, 1748b, 1748g, 1748h-1, 1749, 1749a, 1749c, and 1750jj of this title, sections 461 and 462 of Title 40, Public Buildings, Property and Works, and sections 1401, 1402, 1410, 1415, 1450, 1451, 1452, 1453, 1455, 1456, 1457, 1460, 1586, 1594a and 1594j of Title 42, repealed section 1715i of this title, and enacted provisions set out as notes under sections 1720 and 1721 of this title and under sections 1456, 1460, 1476 and 1592c of Title 42, may be cited as the "Housing Act of 1959."

SHORT TITLE OF 1956 AMENDMENTS

Congress, in amending sections 1464(c), 1703(a), (b), 1709(b)(2), (h), 1713(b), (c), (c)(2), (c)(3), 1715e(a), (b)(2), (h), 1715h, 1715k, (d)(1)(A), (d)(3)(B), (ii), (d)(3)(B)(iii), 1715*l*(a), (d), 1715r, 1717(b), 1718(b), 1719(a), (d), 1720(b), (c), (e), (f), 1721(c), 1748(g), 1748b(a), (b)(2), (b)(3)(B), (b)(3)(C), 1749(d) of this title, former section 694*l*(b)(C) of Title 38, Pensions, Bonuses, and Veterans' Relief, section 461 of Title 40, Public Buildings, Property, and Works, and sections 1402(2), 1410(i), 1412(f), 1415(5), 1421(d), 1451(c), 1452(d), 1454, 1455(a)(1), 1456(e), 1460(b) to (e), 1481 to 1483, 1594(a), (b), 1594a, 1594b, 1594c, of Title 42, Public Health and Welfare, enacting sections 1701d-3, 1701h-1, and provisions set out as notes under section 1703 of this title, and sections 1410(m), 1456(f), 1462, 1496, 1589d, 1594f and provisions set out as notes under sections 1481, 1592c, and 1594 of Title 42, and repealing section 1721(e) of this title and 1411b of Title 42, provided by act Aug. 7, 1956, ch. 1029, § 1, 70 Stat. 1091, that such amendments, enactments, and repeals, should be popularly known as the "Housing Act of 1956".

SHORT TITLE OF 1955 AMENDMENTS

Congress, in enacting act Aug. 11, 1955, which amended sections 1426(i), 1427(a), 1437, 1464(c), 1703(a), 1710(f), 1713(a)(1)(B), 1713(a)(6), 1713(c), 1715e(b)(1), (2), 1715e(c), (d), 1715h, 1715k(d)(3)(A), (B), 1715*l*(a), 1715*l*(d)(3), 1715n(a), 1715r(a), 1726(d), 1729(e), 1739(f), 1748 to 1748g, 1749, 1749c(b), (c), (h) of this title, enacted sections 1701d-2, 1720(e), and 1720(f) of this title, enacted provisions set out in notes under sections 1426, 1715e, and 1749 of this title, repealed sections 1748g-1, and 1748h of this title, amended section 462 of Title 40, Public Buildings, Property, and Works, amended sections 1410(i), 1451(c), 1453(b), 1456(e), 1460(c), 1481 to 1483, 1585(a), and 1591c of Title 42, The Public Health and Welfare, enacted sections 1491 to 1495, and 1594 to 1594e of Title 42, enacted provisions set out in a note under section 1594 of Title 42, amended sections 480, 480a, 721, 721a, 910, 910a, 1408, 1408b, and 1408c of Title 48, Territories and Insular Possessions, and enacted provisions set out in notes under sections 480 and 1408 of Title 48, provided by section 1 of such act that such

amendments, enactments, and repeals should be popularly known as the "Housing Amendments of 1955".

Act Aug. 11, 1955, ch. 783, title III, § 304, 69 Stat. 646, provided that the amendments to sections 1749 and 1749c of this title by act Aug. 11, 1955, should be popularly known as the "College Housing Amendments of 1955".

SHORT TITLE OF 1954 AMENDMENTS

Congress, in enacting act Aug. 2, 1954, which amended sections 24, 1430(b)(2), 1431(h), 1436, 1464(c), (d), 1701h, 1703(a), (f), 1706c(a), 1709(b)(2), (3), (5), (c), (d), (h), (i), 1710(a), (d), (j), 1711, 1713(c)(2), (3), (d), (h), (i), 1715c(a), 1715e(b)(1), (2), 1715e(c)(1), (f), 1715h, former section 1715j, sections 1716, 1717 to 1721, 1725(c)(4), 1728(c), 1729(e), 1730, 1748(a), (b), (f), 1749(a), 1750b(a), 1750c(d), and 1750g(b)(3) of this title, enacted sections 1701j-1, 1701n to 1701p, former section 1702a, sections 1715k to 1715r, former section 1715s, sections 1722 to 1723d, 1731a, 1731b, 1746a, and 1750aa to 1750jj of this title, enacted provisions set out in notes under sections 1703, 1710, 1715n, 1715s, and 1716 of this title, repealed sections 1701j, 1706, 1709(f), (g), 1716-1, 1716a, and 1725(f) of this title, amended section 709 of Title 18, Crimes and Criminal Procedure, amended former section 272(g) of Title 20, Education, enacted provisions set out as a note under section 846 of Title 31, Money and Finance, amended former section 694a(b) of Title 38, Veterans' Benefits, enacted sections 460 to 462 of Title 40, Public Buildings, Property, and Works, amended section 459(a), (b), (c), (d) and former section 459(d) of Title 40, repealed section 456 of Title 40, amended section 1407(b), 1410(g), (h), 1415(8)(b), 1451, 1452(a), (b), (d), 1453(a), 1454, 1455 prec. (a), (a), (b), (c), 1456a(3), 1456(b), 1457, 1459, 1460, 1481 to 1483, 1585(a), 1591c, and 1592a(b) of Title 42, The Public Health and Welfare, enacted sections 1410(i), (j), (k), (*l*), 1411d, 1434, 1435, 1446, 1450, 1452a, 1455a, 1587(g), and 1589c of Title 42, enacted provisions set out as notes under sections 1434, 1446, and 1450 of Title 42, repealed sections 1416(6), 1451a, 1456(a), (4), 1461, and 1551 of Title 42, and repealed sections 484e, 724, and 1426 of Title 48, Territories and Insular Possessions, provided by act Aug. 2, 1954, ch. 649, § 1, 68 Stat. 590, that such amendments, enactments, and repeals should be popularly known as "Housing Act of 1954".

Congress, in enacting section 201 of act Aug. 2, 1954, which generally amended subchapter III of this chapter, provided by section 312 of act June 27, 1934, as added to that act by section 201, that subchapter III of this chapter, should be popularly known as the "Federal National Mortgage Association Charter Act".

SHORT TITLE OF 1953 AMENDMENTS

Act June 30, 1953, ch. 170, § 1, 67 Stat. 121, provided: "This Act [enacting sections 1715j and 1735 of this title, and sections 723 and 1425 of Title 48, Territories and Insular Possessions; amending sections 1701j, 1706c(b), 1709, 1711(c)(i), 1715d, 1715e(d), 1715h, 1716(a), 1716-1, 1717, 1748b(a), (b), 1749(a), 1750b(a), and 1750g(b) of this title, sections 1402(10), 1456(e), 1460(g), 1591(a), 1591c, 1592d(c), and 1592n(e) of Title 42, The Public Health and Welfare, and section 2166(c) of Title 50, Appendix, War and National Defense; and the provisions set out as a note under section 1463 of this title, relating to dissolution and abolishment of the Home Owners' Loan Corporation] may be cited as the 'Housing Amendments of 1953'."

SHORT TITLE OF 1952 AMENDMENTS

Congress in enacting sections 1701m, 1706d, and former section 1715i of this title and amending sections 1422, 1423, 1464, 1466, 1701g-2, 1707, 1713, 1715d, 1715h, 1716, 1717, 1726, 1736, 1745, 1747*l*, 1748, and 1750b of this title; sections 1481 to 1483, 1589a, 1592a, 1592*l*, and former section 1593 of Title 42, The Public Health and Welfare; and section 484 and former section 484d of Title 48, Territories and Insular Possessions, provided by act July 14, 1952, ch. 723, § 1, 66 Stat. 601, that these sections should be popularly known as the "Housing Act of 1952".

SHORT TITLE OF 1948 AMENDMENT

Congress in enacting sections 1701c, 1701e to 1701g-3, 1702, 1703, 1709, 1710, 1713, 1716, 1738, 1743 to 1746, and 1747 to 1747*l* of this title, section 846 of Title 31, Money and Finance, former section 694 of Title 38, Pensions, Bonuses, and Veterans' Relief, and section 1404a of Title 42, The Public Health and Welfare, provided by section 1 of act Aug. 10, 1948, ch. 832, 62 Stat. 1268, that the sections should be popularly known as the "Housing Act of 1948".

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of Title 42, The Public Health and Welfare.

§ 1701a. Short title of amendment of 1938

The Act of February 3, 1938, ch. 13, 52 Stat. 8, may be cited as the "National Housing Act Amendments of 1938."

(Feb. 3, 1938, ch. 13, § 1, 52 Stat. 8.)

REFERENCES IN TEXT

The National Housing Act Amendments of 1938 added former section 1715a, sections 1715b, and 1733 of this title and amended sections 24, 1703, 1707 to 1709, 1710 to 1715, 1716, 1717, 1718, and former section 1731 [now covered in sections 433, 493, 657, 1006, and 1008 to 1010 of Title 18, Crimes and Criminal Procedure] of this title.

§ 1701b. Short title of amendment of 1942

The Act of May 26, 1942, ch. 319, 56 Stat. 301, may be cited as the "National Housing Act Amendments of 1942".

(May 26, 1942, ch. 319, § 15, 56 Stat. 305.)

REFERENCES IN TEXT

The National Housing Act Amendments of 1942 added section 1743 of this title, amended heading of subchapter VI of this chapter [preceding section 1736 of this title], amended sections 1703, 1715c, former section 1737, sections 1738, 1739, and former section 1740 of this title, and enacted provisions set out as a note under section 1743 of this title.

CROSS REFERENCES

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note under section 1743 of this title.

§ 1701c. Secretary of Housing and Urban Development

In carrying out his functions, powers, and duties—

(a) Employment of personnel; delegation of functions

The Secretary of Housing and Urban Development may appoint such officers and employees as he may find necessary, which appointments shall be subject to the civil-service laws and chapter 51 and subchapter III of chapter

53 of title 5. The Secretary may make such expenditures as may be necessary to carry out his functions, powers, and duties, and there are authorized to be appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out such functions, powers, and duties and for administrative expenses in connection therewith. The Secretary, without in any way relieving himself from final responsibility, may delegate any of his functions and powers to such officers, agents, or employees as he may designate, may authorize such successive redelegations of such functions and powers, as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(b) Additional powers and duties of Secretary and Federal Home Loan Bank Board

The Secretary of Housing and Urban Development and the Federal Home Loan Bank Board (which term as used in this section shall also include and refer to the Federal Savings and Loan Insurance Corporation, the Home Owners' Loan Corporation, and the Chairman of the Federal Home Loan Bank Board), respectively, may, in addition to and not in derogation of any powers and authorities conferred elsewhere in this Act.

(1) with the consent of the agency or organization concerned, accept and utilize equipment, facilities, or the services of employees of any State or local public agency or instrumentality, educational institution, or nonprofit agency or organization and, in connection with the utilization of such services, may make payments for transportation while away from their homes or regular places of business and per diem in lieu of subsistence en route and at place of such service, in accordance with the provisions of section 5703 of title 5;

(2) utilize, contract with and act through, without regard to section 5 of title 41, any Federal, State, or local public agency or instrumentality, educational institution, or nonprofit agency or organization with the consent of the agency or organization concerned, and any funds available to said officers for carrying out their respective functions, powers, and duties shall be available to reimburse or pay any such agency or organization; and, whenever in the judgment of any such officer necessary, he may make advance, progress, or other payments with respect to such contracts without regard to the provisions of section 529 of title 31;

(3) make expenditures for all necessary expenses, including preparation, mounting, shipping, and installation of exhibits; purchase and exchange of technical apparatus; and such other expenses as may, from time to time, be found necessary in carrying out their respective functions, powers, and duties: *Provided*, That funds made available for administrative expenses in carrying out the functions, powers, and duties imposed upon the Secretary of Housing and Urban Development and the Federal Home Loan Bank Board, respectively, by or pursuant to law may at their option be consolidated into a single administrative expense fund accounts of such officer or agency for expenditure by them, respectively, in accordance with the provisions hereof.

(c) Use of funds for library memberships

The Secretary of Housing and Urban Development may utilize funds made available to him for salaries and expenses for payment in advance for dues or fees for library memberships in organizations (or for membership of the individual librarians in organizations which will not accept library membership) whose publications are available to members only, or to members at a price lower than to the general public, and for payment in advance for publications available only upon that basis or available at a reduced price on prepublication order.

(Aug. 10, 1948, ch. 832, title V, § 502(a), (c), (d), 62 Stat. 1283; Oct. 28, 1949, ch. 782 title XI, § 1106(a), 63 Stat. 972; Apr. 20, 1950, ch. 94, title V, § 503, 64 Stat. 80; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640; June 30, 1961, Pub. L. 87-70, title IX, § 909, 75 Stat. 192; May 25, 1967, Pub. L. 90-19, § 5(d)(1)-(3), (8)-(13), 81 Stat. 21.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

"This Act", referred to in subsec. (b), means the Housing Act of 1948, act Aug. 10, 1948. For classification of such Act in the Code, see Short Title note under section 1747 of this title.

CODIFICATION

"Chapter 51 and subchapter III of chapter 53 of title 5" were substituted in subsec. (a) for "the Classification Act of 1949, as amended" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

"Section 5703 of title 5" was substituted in subsec. (b)(1) for "5 U.S.C. 73b-2" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Section is composed of subsecs. (a), (c), and (d) of section 502 of act Aug. 10, 1948. Subsec. (b) of section 502 is set out as section 1404a of Title 42, The Public Health and Welfare.

Section was enacted as a part of the Housing Act of 1948, and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-19, § 5(d)(1) to (3), substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator" and "Secretary" for "Administrator" wherever appearing, and struck out provision for preparation of official seal and judicial notice thereof, respectively.

Subsec. (b), Pub. L. 90-19, § 5(d)(8), (9), substituted "Secretary of Housing and Urban Development and the Federal Home Loan Bank Board" for "Housing and Home Finance Administrator, the Home Loan Bank Board" where it first appears and "Federal Home Loan Bank Board" for "Home Loan Bank Board, the Federal Housing Commissioner, and the Public Housing Commissioner", respectively.

Subsec. (b)(3). Pub. L. 90-19, § 5(d)(10), (11), substituted "Secretary of Housing and Urban Development and the Federal Home Loan Bank Board" and "such officer or agency" for "Housing and Home Finance Administrator, the Home Loan Bank Board, the Federal Housing Commissioner, and the Public Housing Commissioner" and "said officers or agencies", respectively.

Subsec. (c). Pub. L. 90-19, § 5(d)(12), (13), substituted "Secretary of Housing and Urban Development may utilize funds made available to him" for "Housing and Home Finance Administrator, the Federal Housing Commissioner and the Public Housing Commissioner, respectively, may utilize funds made available to them" and struck out "of the respective agencies" following "librarians", respectively.

1961—Subsec. (b)(3). Pub. L. 87-70, § 909(1), eliminated provisions which made section 5 of Title 41 inapplicable to any purchase or contract by officers (or their agencies) for services or supplies if the amount thereof does not exceed $300.

Subsec. (c). Pub. L. 87-70, § 909(2), added subsec. (c).

1950—Act Apr. 20, 1950, authorized the Administrator to permit redelegation of functions and powers which he had delegated previously to officers, agents, and employees but this does not relieve him of any final responsibility, and inserted "or pay" after "reimburse" in subpar. (2).

1949—Subsec. (a). Act Oct. 28, 1949, substituted the "Classification Act of 1949" for the "Classification Act of 1923".

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955.

REPEALS

Act Oct. 28, 1949, ch. 782, § 1106(a), 63 Stat. 972, set out in the credit of this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, § 8, 80 Stat. 632, 655.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Secretary of Housing and Urban Development, see Parts 1, 12, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

ABOLISHMENT OF NATIONAL HOUSING COUNCIL

Reference to membership of the Secretary of Commerce in the National Housing Council has been omitted as executed. The National Housing Council was abolished and its functions, together with the functions of its chairman and other officers, were transferred to the President of the United States by sections 1(a) and 3(a) of Reorg. Plan No. 4 of 1965, eff. July 27, 1965, 30 F.R. 9353, 79 Stat. 1321, set out in the Appendix to Title 5, Government Organization and Employees.

ANNUAL REPORT ON AREAS OF PROGRAM ADMINISTRATION AND MANAGEMENT WHICH REQUIRE IMPROVEMENT

Pub. L. 93-608, § 1(9), Jan. 2, 1975, 88 Stat. 1968, repealed Pub. L. 90-448, § 5, Aug. 1, 1968, 82 Stat. 477, as amended by Pub. L. 91-609, title IX, § 918, Dec. 31, 1970, 84 Stat. 1816, which required an annual report by the Secretary to the Committees on Banking and Currency of the House and Senate, identifying specific areas of program administration and management which require improvement, describing actions taken and proposed, and recommendations for legislation.

ABOLISHMENT OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of the Home Owners' Loan Corporation, referred to in this section, by act June 30, 1953, ch. 170, § 21, 67 Stat. 126, see note under former section 1463 of this title.

EX. ORD. NO. 11196. DELEGATION OF FUNCTIONS TO ADMINISTRATOR

Ex. Ord. No. 11196, Feb. 2, 1965, 30 F.R. 1171, provided:

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows—

SECTION 1. The Housing and Home Finance Administrator is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(1) The authority vested in the President by Section 6(d) of the United States Housing Act of 1937, 50 Stat. 888 (42 U.S.C. 1406(d)), to approve the undertaking by the Public Housing Administration of any annual contribution, grant, or loan, or any contract for any annual contribution, grant, or loan, under that Act.

(2) The authority vested in the President by Section 14 of the United States Housing Act of 1937, 50 Stat. 895 (42 U.S.C. 1414), to approve the amending or superseding of any contract for annual contributions or loans, or both, so that the going Federal rate on the basis of which such annual contributions or the interest rate on the loans, or both, respectively, are fixed shall mean the going Federal rate on the date of approval of the amending or superseding contract entered into by the Public Housing Administration.

(3) The authority vested in the Housing and Home Finance Administrator by Section 103(b) of the Housing Act of 1949, 63 Stat. 416 (42 U.S.C. 1453(b)), to contract, with the approval of the President, to make grants under Title I of that Act [section 1450 et seq. of Title 42, The Public Health and Welfare].

(4) The authority vested in the President by Title II of the Act of June 28, 1940, ch. 440, 54 Stat. 681 (42 U.S.C. 1501 to 1505), to determine that housing administered or assisted by the Public Housing Administration under that Title is no longer needed to assure the availability of dwellings for persons engaged in national-defense activities: *Provided,* That determinations under this paragraph shall require the concurrence of the Secretary of Defense.

(5) The authority vested in the President by Section 5 of the Act of June 29, 1936, ch. 860, 49 Stat. 2026 [section 425 of Title 40, Public Buildings, Property, and Works], to approve the dedication by the Public Housing Commissioner of streets, alleys, and parks for public use, and the granting by the Commissioner of easements, in connection with any low-cost housing or slum-clearance project described in that Act.

(6) The authority vested in the President by Section 57 of the Alaska Omnibus Act (added by Public Law 88-451 of Aug. 19, 1964, 78 Stat. 507) [set out as a note preceding section 21 of Title 48, Territories and Insular Possessions], (A) to make the grants to the State of Alaska provided for in that Section, (B) to approve a plan submitted by the State of Alaska for the implementation of the purpose of that Section, (C) to specify reports to be made by the agency designated by the State of Alaska in accordance with that Section and to prescribe the form of, and information to be contained in, such reports, and (D) to demand access to the records upon which such reports are based.

SEC. 2. The following are hereby superseded:

(1) Part III of Executive Order No. 10530 of May 10, 1954.

(2) Executive Order No. 10573 of October 26, 1954.

(3) Executive Order No. 10852 of November 27, 1959.

(4) So much of Executive Order No. 11184 of October 13, 1964, as added paragraph (g) to Section 4 of Executive Order No. 10530 of May 10, 1954.

SEC. 3. (a) References in this Order to any statute or to any provision of any statute shall be deemed to include (1) to the extent not inappropriate, references thereto as amended from time to time, (2) in the cases of Sections 1(1), 1(2), 1(4), and 1(5) of this Order, references to Reorganization Plan No. 3 of 1947 (61 Stat. 954), and (3) in the case of Section 1(5) of this Order, a reference to Executive Order No. 7732 of October 27, 1937.

(b) Unless inappropriate, any reference in any Executive order to any Executive order which is superseded by this Order, or to any Executive order provision so superseded, shall hereafter be deemed to refer to this Order or to the provision of Section 1 hereof, if any, which corresponds to the superseded provision.

SEC. 4. All actions heretofore taken by the President or by his delegate in respect of the matters affected by Section 1 of this Order and in force at the time of the issuance of this Order shall, except as they may be inconsistent with the provisions of this Order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this Order unless sooner terminated by operation of law.

LYNDON B. JOHNSON.

CROSS REFERENCES

Administrative expenses of Federal Home Loan Bank Board, see section 1438 of this title.

Federal Home Loan Bank Board including Federal Savings and Loan Insurance Corporation as independent agency, see section 1437 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701z–2 of this title.

§ 1701c–1. Omitted

CODIFICATION

Section, act June 24, 1954, ch. 359, title I, § 101, 68 Stat. 283, provided for promotion of economy, efficiency and fidelity in operations of Housing and Home Finance Agency by its Administrator, on and after June 24, 1954, under Reorg. Plan No. 3 of 1947, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees, through assignment and reassignment of functions, reorganizations, and reallocation and transfers of administrative expense funds and authority. Functions, powers, and duties of such agency, its head and other officers were transferred to and vested in the Secretary of Housing and Urban Development by Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of Title 42, The Public Health and Welfare.

§ 1701d. Repealed. Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 655

Section, acts Aug. 10, 1948, ch. 832, title V, § 501(a), 62 Stat. 1283; Oct. 15, 1949, ch. 695, § 3, 63 Stat. 880, provided for compensation of Housing and Home Finance Administrator.

§§ 1701d–1, 1701d–2. Repealed. Pub. L. 90–19, §§ 6(i), 12(a), May 25, 1967, 81 Stat. 22, 23

Section 1701d–1, act July 15, 1949, ch. 338, title VI, § 605, 63 Stat. 440, provided for appointment and duties of a Deputy Housing and Home Finance Administrator, including status of acting Administrator during absence, disability, or vacancy in office.

Section 1701d–2, act Aug. 11, 1955, ch. 783, title I, § 113, 69 Stat. 642, prescribed compensation of Community Facilities Commissioner at same rate established for heads of constituent agencies of the Housing and Home Finance Agency. See section 5315(25) of Title 5, Government Organization and Employees. Section was previously repealed by Pub. L. 89–554, § 8(a), Sept. 6, 1966, 80 Stat. 658.

§ 1701d–3. Repealed. Pub. L. 91–609, title V, § 503(3), Dec. 31, 1970, 84 Stat. 1785

Section, acts Aug. 7, 1956, ch. 1029, title VI, § 602, 70 Stat. 1113; May 25, 1967, Pub. L. 90–19, § 13(b), 81 Stat. 24; Aug. 12, 1970, Pub. L. 91–375, § 6(e), 84 Stat. 776, related to research and provided for: authorization for specific programs; contracts and working agreements, amount of authorization, appropriations, duration of contract, and unexpended balances of appropriations; dissemination of data; acquisition and use of data; and authority of Secretary. See sections 1701z–1 to 1701z–4 of this title.

§ 1701d–4. Exchange and assembly of housing and urban planning and development data; payment of expenses; acceptance of funds, services, facilities, materials, and other donations; approval of Secretary of State for international programs and activities

(a) The Secretary of Housing and Urban Development may exchange data relating to housing and urban planning and development with other nations and assemble such data from other nations, through participation in international conference and other means, where such exchange or assembly is deemed by him to be beneficial in carrying out his responsibilities under the Department of Housing and Urban Development Act [42 U.S.C. 3531 et seq.] or other legislation. In carrying out his responsibilities under this subsection the Secretary may—

(1) pay the expenses of participation in activities conducted under authority of this section including, but not limited to, the compensation, travel expenses, and per diem in lieu of subsistence of persons serving in an advisory capacity while away from their homes or regular places of business in connection with attendance at international meetings and conferences, or other travel for the purpose of exchange or assembly of data relating to housing and urban planning and development; but such travel expenses shall not exceed those authorized for regular officers and employees traveling in connection with said activities; and

(2) accept from international organizations, foreign countries, and private nonprofit foundations, funds, services, facilities, materials, and other donations to be utilized jointly in carrying out activities under this section.

(b) International programs and activities carried out by the Secretary under the authority provided in subsection (a) of this section shall be subject to the approval of the Secretary of State for the purpose of assuring that such authority shall be exercised in a manner consistent with the foreign policy of the United States.

(Pub. L. 85–104, title VI, § 604, July 12, 1957, 71 Stat. 305; Pub. L. 90–19, § 14(b), May 25, 1967, 81 Stat. 24; Pub. L. 90–448, title XVII, § 1709, Aug. 1, 1968, 82 Stat. 606.)

REFERENCES IN TEXT

The Department of Housing and Urban Development Act, referred to in subsec. (a), is Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 667, which is classified generally to chapter 44 (§ 3531 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of Title 42 and Tables volume.

CODIFICATION

Section was enacted as a part of the Housing Act of 1957, and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1968—Pub. L. 90–448 designated existing provisions as subsec. (a), included therein assembly of data from other nations, and authorized payment of expenses of participation in activities conducted under authority of this section, and acceptance from international organizations, foreign countries, and private nonprofit

foundations of funds, services, facilities, materials and other donations to be utilized jointly, and added subsec. (b).

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" and "Department of Housing and Urban Development" for "Housing and Home Finance Administrator" and "Housing and Home Finance Agency", respectively.

§§ 1701e, 1701f. Repealed. Pub. L. 91-609, title V, § 503(1), Dec. 31, 1970, 84 Stat. 1785

Section 1701e, acts Aug. 10, 1948, ch. 832, title III, § 301, 62 Stat. 1276; July 15, 1949, ch. 338, title IV, § 401, 63 Stat. 431; May 25, 1967, Pub. L. 90-19, § 5(a), 81 Stat. 20; Aug. 12, 1970, Pub. L. 91-375, § 6(f), 84 Stat. 776, related to development and promotion by Secretary of new housing construction techniques, materials, and methods, and provided for: improvement and standardization of building codes, contracts for research and studies, publications, and consolidation of functions and activities; reports to President and Congress on urban and rural nonfarm needs; and surveys and plans by local communities and cooperation by Federal agencies. See sections 1701z-1 to 1701z-4 of this title.

Section 1701f, acts Aug. 10, 1948, ch. 832, title III, § 302, 62 Stat. 1276; July 15, 1949, ch. 338, title IV, § 401, 63 Stat. 431; May 25, 1967, Pub. L. 90-19, § 5(b), 81 Stat. 21, provided for utilization of other Federal agencies; cooperative studies with industry, labor, etc.; and exercise of powers by Secretary. See sections 1701z-1 to 1701z-4 of this title.

§ 1701f-1. Repealed. Pub. L. 90-19, § 5(c), May 25, 1967, 81 Stat. 21

Section, act Aug. 10, 1948, ch. 832, title III, § 304, as added July 15, 1949, ch. 338, title IV, § 401, 63 Stat. 431, provided for appointment, powers, and compensation of a Director. Section was previously repealed by Pub. L. 89-534, § 8(a), Sept. 6, 1966, 80 Stat. 655.

§§ 1701g to 1701g-3. Omitted

CODIFICATION

Sections 1701g to 1701g-3 were from sections 102 to 102c of the Housing Act of 1948, and provided for loans to aid production and distribution of prefabricated housing; provided for loans to assure maintenance of industrial capacity for production of such homes for national defense; provided for the powers of the Housing and Home Finance Administrator; and included mobile or portable houses within the term "prefabricated houses". Authority for issuance of section 1701g obligations under section 1(4) of Reorg. Plan No. 23 of 1950 as terminating June 30, 1954, see section 1701g-5 of this title. Authority to make or purchase section 1701g-1 loans or obligations as terminating July 31, 1954, see section 1591c of Title 42, The Public Health and Welfare.

Section 1701g, act Aug. 10, 1948, ch. 832, title I, § 102, 62 Stat. 1275, amended Sept. 1, 1951, ch. 378, title V, § 501, 65 Stat. 311.

Section 1701g-1, act Aug. 10, 1948, ch. 832, title I, § 102a, added Sept. 1, 1951, ch. 378, title V, § 502, 65 Stat. 312.

Section 1701g-2, act Aug. 10, 1948, ch. 832, title I, § 102b, added Sept. 1, 1951, ch. 378, title V, § 502, 65 Stat. 312, and amended July 14, 1952, ch. 723, § 10(e), 66 Stat. 604.

Section 1701g-3, act Aug. 10, 1948, ch. 832, title I, § 102c, added Sept. 1, 1951, ch. 378, title V, § 502, 65 Stat. 312.

§ 1701g-4. Omitted

CODIFICATION

Section, which placed restrictions on loans, was from the Independent Offices Appropriation Act, 1953, act July 5, 1952, ch. 578, title III, § 301, 66 Stat. 415, and was not repeated in subsequent appropriation acts.

SIMILAR PROVISIONS

Similar provisions were contained in Aug. 31, 1951, ch. 376, title IV, § 401, 65 Stat. 287.

§ 1701g-5. Revolving fund in connection with liquidating programs

There is established as of June 30, 1954, a revolving fund, and the Secretary of Housing and Urban Development is authorized to credit said fund with all moneys hereafter obtained or now held by him or by any constituent agency of the Department of Housing and Urban Development or any other official thereof, and to account under said fund for all assets and liabilities, in connection with (1) community facilities provided or assisted under title II of the Lanham Act, as amended [42 U.S.C. 1531 et seq.], or under title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended [42 U.S.C. 1592 et seq.]; (2) loans or advances made pursuant to title V of the War Mobilization and Reconversion Act of 1944 (58 Stat. 791), or the Act of October 13, 1949 [40 U.S.C. 451 to 458]; (3) functions transferred under Reorganization Plan No. 23 of 1950, or authorized under sections 102, 102a, 102b, and 102c of the Housing Act of 1948, as amended [12 U.S.C. 1701g to 1701g-3]; (4) notes or other obligations purchased pursuant to the Alaska Housing Act, as amended (48 U.S.C. 484(a)); (5) subsistence homesteads and greentowns (Acts of June 29, 1936, 49 Stat. 2035, and May 19, 1949, 63 Stat. 68); (6) public war housing under title I of the Lanham Act, as amended [42 U.S.C. 1521 et seq.], and defense housing under title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended [42 U.S.C. 1592 et seq.]; and (7) veterans' re-use housing under title V of the Lanham Act, as amended [42 U.S.C. 1571 et seq.]: *Provided,* That said fund shall be available for all necessary expenses (including administrative expenses) in connection with the liquidation of the programs carried out pursuant to the foregoing provisions of law, including operation, maintenance, improvement, or disposition of facilities, and for disbursements pursuant to outstanding commitments against moneys herein authorized to be credited to said fund, repayment of obligations to the Treasury, and refinancing and refunding operations on existing loans: *Provided further,* That any amount in said fund which is determined to be in excess of requirements for the purposes hereof shall be declared and paid as liquidating dividends to the Treasury not less often than annually: *Provided further,* That after June 24, 1954, no additional notes or obligations shall be purchased from funds appropriated pursuant to the Alaska Housing Act, as amended (48 U.S.C. 484(d)), except for the furtherance or refinancing of an existing loan: *Provided further,* That except for extensions, or refinancing, of existing obligations the authority to issue obligations to the Secretary of the Treasury under section 1(4) of Reorganization Plan No. 23 of 1950, shall terminate on June 30, 1954.

(June 24, 1954, ch. 359, title II, § 201, 68 Stat. 295.)

REFERENCES IN TEXT

Title II of the Lanham Act, as amended, referred to in clause (1), is classified to subchapter III (§ 1531 et seq.) of chapter 9 of Title 42, The Public Health and Welfare.

Title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended, referred to in clauses (1) and (6), is classified to subchapter IX (§ 1592 et seq.) of chapter 9 of Title 42.

Title V of the War Mobilization and Reconversion Act of 1944, referred to in clause (2), which related to public works, was formerly classified to section 1671 of Title 50, Appendix, War and National Defense. It has been omitted from the Code as having expired on June 30, 1947, under the terms of section 603 of that act.

The Act of October 13, 1949 [40 U. S. C. 451 to 458], referred to in clause (2), which related to loans and advances to States and non-Federal public agencies for advance planning on non-Federal public works, has been omitted from the Code as executed. Section 456, included in the enumeration of former sections 451 to 458 of Title 40, which related to reports to Congress, was repealed by act Aug. 2, 1954, ch. 649, title VIII, § 802(b), 68 Stat. 642, and is covered by section 1701o of this title.

Reorganization Plan No. 23 of 1950, referred to in clause (3) and in the last proviso, is set out in the Appendix to Title 5, Government Organization and Employees.

The Alaska Housing Act, as amended, referred to in clause (3) and in the third proviso, which was formerly classified to sections 484 to 484d of Title 48, Territories and Insular Affairs, has been omitted from the Code, except for section 2(a) thereof which added a new section 214 to the National Housing Act and which is classified to section 1715d of this title.

Act June 29, 1936, 49 Stat. 2035, referred to in clause (5), which related to resettlement or rural rehabilitation projects, and which was formerly classified in sections 431 to 434 of Title 40, Public Buildings, Property, and Works, was repealed by act Aug. 14, 1946, ch. 964, § 2(a)(1), 60 Stat. 1062. It is now covered by chapter 50 (§ 1921 et seq.) of Title 7, Agriculture.

Act May 19, 1949, 63 Stat. 68, referred to in clause (5), authorized the sale, without competitive bidding, of certain resettlement projects in Maryland, Wisconsin, and Ohio. It was not classified to the Code.

Title I of the Lanham Act, as amended, referred to in clause (6), is classified to subchapter II (§ 1521 et seq.) of chapter 9 of Title 42.

Title V of the Lanham Act, as amended, referred to in clause (7), is classified to subchapter VI (§ 1571 et seq.) of chapter 9 of Title 42.

CODIFICATION

Section was enacted as a part of title II of the Independent Offices Appropriation Act, 1955, and not as part of the National Housing Act which comprises this chapter.

The third and last provisos contained in the original have been omitted from this section. Those provisos contained limitations on amounts available during fiscal year 1955 for certain administrative and other expenses. Similar or related limitations were contained in the following appropriation acts:

Oct. 17, 1975, Pub. L. 94-116, Title I, § 101, 89 Stat. 583.

Sept. 6, 1974, Pub. L. 93-414, Title I, § 101, 88 Stat. 1096.

Oct. 26, 1973, Pub. L. 93-137, Title I, § 101, 87 Stat. 492.

Aug. 14, 1972, Pub. L. 92-383, Title I, § 101, 86 Stat. 541.

Aug. 10, 1971, Pub. L. 92-78, Title I, § 101, 85 Stat. 273.

Dec. 17, 1970, Pub. L. 91-556, Title IV, § 401, 84 Stat. 1462.

Nov. 16, 1969, Pub. L. 91-126, Title III, § 301, 83 Stat. 241.

Oct. 4, 1968, Pub. L. 90-550, Title III, § 301, 82 Stat. 955.

Nov. 3, 1967, Pub. L. 90-121, Title II, § 201, 81 Stat. 359.

Sept. 6, 1966, Pub. L. 89-555, Title II, § 201, 80 Stat. 686.

Aug. 16, 1965, Pub. L. 89-128, Title II, § 201, 79 Stat. 541.

Aug. 30, 1964, Pub. L. 88-507, Title II, § 201, 78 Stat. 664.

Dec. 19, 1963, Pub. L. 88-215, Title II, § 201, 77 Stat. 446.

Oct. 3, 1962, Pub. L. 87-741, Title II, § 201, 76 Stat. 738.

Aug. 17, 1961, Pub. L. 87-141, Title II, § 201, 75 Stat. 362.

July 12, 1960, Pub. L. 86-626, Title II, § 201, 74 Stat. 443.

Sept. 14, 1959, Pub. L. 86-255, Title II, § 201, 73 Stat. 516.

Aug. 28, 1958, Pub. L. 85-844, Title II, § 201, 72 Stat. 1080.

June 29, 1957, Pub. L. 85-69, Title II, § 201, 71 Stat. 240.

June 27, 1956, ch. 452, Title II, § 201, 70 Stat. 354.

May 19, 1956, ch. 313, ch. V, § 501, 70 Stat. 166.

June 30, 1955, ch. 244, Title II, § 201, 69 Stat. 213.

TRANSFER OF FUNCTIONS

All functions of the Housing and Home Finance Agency and the Administrator thereof were transferred to the Secretary of Housing and Urban Development by section 5(a) of the Department of Housing and Urban Development Act (Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 669) which is classified to section 3534(a) of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 1585, 5317.

§ 1701h. Advisory committees; payment of transportation and other expenses

The Secretary of Housing and Urban Development is authorized to establish such advisory committee or committees as he may deem necessary in carrying out any of his functions, powers, and duties under this or any other Act or authorization. Persons serving without compensation as members of any such committee may be paid transportation expenses and not to exceed $25 per diem in lieu of subsistence, as authorized by section 5703 of title 5.

(July 15, 1949, ch. 338, title VI, § 601, 63 Stat. 439; Aug. 2, 1954, ch. 649, title VIII, § 807, 68 Stat. 645; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1106, 79 Stat. 503; May 25, 1967, Pub. L. 90-19, § 6(h), 81 Stat. 22.)

REFERENCES IN TEXT

This Act, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, popularly known as the Housing Act of 1949. For classification of this Act to the Code, see Short Title note under section 1441 of Title 42, The Public Health and Welfare, and Tables volume.

CODIFICATION

"Section 5703 of title 5" was substituted for "section 5 of the Act of August 2, 1946 (5 U.S.C. 73b-2)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

Section was enacted as a part of the Housing Act of 1949, and was not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "The Secretary of Housing and Urban Development" and "he" for "The Housing and Home Finance Administrator and the head of each constituent agency of the Housing and Home Finance Agency" and "each", respectively.

1965—Pub. L. 89-117 removed the provision that had declared inapplicable the conflict-of-interest statutes in the case of members of advisory committees.

1954—Act Aug. 2, 1954, permitted heads of constituent agencies of the Housing and Home Finance Agency to establish advisory committees, inserted the provisions relating to inapplicability of the conflict-of-interest statutes with respect to committee members serving without compensation, and inserted the provisions relating to payment of expenses.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

EX. ORD. NO. 10486. ADVISORY COMMITTEE ON GOVERNMENT HOUSING POLICIES AND PROGRAMS

Ex. Ord. No. 10486, Sept. 12, 1953, 18 F.R. 5561, provided:

1. There shall be established the Advisory Committee on Government Housing Policies and Programs.

2. The Committee shall make, or cause to be made, studies and surveys of the housing policies and programs of the Government and the organization within the Executive Branch for the administration of such policies and programs, and shall advise the Housing and Home Finance Administrator and the President with respect thereto.

3. The Housing and Home Finance Administrator shall serve as the Chairman of the Committee, and the other members of the Committee shall be appointed pursuant to the provisions of this Executive Order and Section 601 of the Housing Act of 1949 (63 Stat. 439) [this section].

4. To work directly with the Housing and Home Finance Administrator in the task of directing specific studies and surveys and developing concrete recommendations, there shall be in the Committee an Executive Committee, consisting of members of the Committee designated for such purpose, and the Housing and Home Finance Administrator shall serve as the Chairman of such Executive Committee.

5. Administrative expenses in connection with the work of the Committee, including expenses of advisers and consultants appointed by the Chairman in connection therewith, shall, upon authorization therefor by the Chairman or his delegate, be paid pursuant to the authority therefor under the heading, "Housing and Home Finance Agency, Office of the Administrator" in the Supplemental Appropriation Act, 1954 (Public Law 207, Eighty-third Congress, approved August 7, 1953).

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CROSS REFERENCES

Federal Home Loan Bank Board including Federal Savings and Loan Insurance Corporation as independent agency, see section 1437 of this title.

National flood insurance advisory committee, see section 4025 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701h-1 of this title; title 20 section 802.

§ 1701h-1. Housing for elderly persons advisory committee

The Secretary of Housing and Urban Development shall establish, in accordance with the provisions of section 1701h of this title, an advisory committee on matters relating to housing for elderly persons.

(Aug. 7, 1956, ch. 1029, title I, § 104(d), 70 Stat. 1093; May 25, 1967, Pub. L. 90-19, § 13(a), 81 Stat. 24.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1956, and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator".

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 1701i, 1701i-1. Omitted

Section 1701i, act July 15, 1949, ch. 338, title VI, § 603, 63 Stat. 440; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, included the Secretary of Labor and the Secretary of Health, Education, and Welfare or their designees in the membership of the National Housing Council of the Housing and Home Finance Agency.

Section 1701i-1, act Sept. 1, 1951, ch. 378, title VI, § 615, 65 Stat. 317, included the Secretary of Defense or his designee and excluded the Chairman of Board of Directors of Reconstruction Finance Corporation or his designee from National Housing Council membership.

§ 1701j. Repealed. Aug. 2, 1954, ch. 649, title VIII, § 813, 68 Stat. 647

Section, acts Apr. 20, 1950, ch. 94, title V, § 504, 64 Stat. 81; Sept. 1, 1951, ch. 378, title VI, § 613(a), 65 Stat. 316; June 30, 1953, ch. 170, § 23, 67 Stat. 127, related to control of charges and fees, imposed by lenders upon builders and purchasers in connection with home loans, by the Federal Housing Commissioner and the Administrator of Veterans' Affairs.

Sections 1, 509, and 510 of act Apr. 20, 1950, formerly set out as notes under this section, are now set out as notes under section 1701k of this title.

§ 1701j-1. Builder's certification as to construction

(a) Warranty requirements

The Secretary of Housing and Urban Development is authorized and directed to require that, in connection with any property upon which there is located a dwelling designed principally for not more than a four-family residence and which is approved for mortgage insurance prior to the beginning of construction, the seller or builder, and such other person as may be required by the said Secretary to become warrantor, shall deliver to the purchaser or owner of such property a warranty that

the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein, which have been approved in writing by the Secretary of Housing and Urban Development) on which the Secretary of Housing and Urban Development based his valuation of the dwelling: *Provided,* That the Secretary of Housing and Urban Development shall deliver to the builder, seller, or other warrantor his written approval (which shall be conclusive evidence of such approval) of any amendment of, or change or variation in, such plans and specifications which the Secretary deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications: *Provided further,* That such warranty shall apply only with respect to such instances of substantial nonconformity to such approved plans and specifications (including any amendments thereof, or changes or variations therein, which have been approved in writing, as provided herein, by the Secretary of Housing and Urban Development) as to which the purchaser or homeowner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs: *Provided further,* That such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument: *And provided further,* That the provisions of this section shall apply to any such property covered by a mortgage insured by the Secretary of Housing and Urban Development on and after October 1, 1954, unless such mortgage is insured pursuant to a commitment therefor made prior to October 1, 1954.

(b) Availability of plans and specifications

The Secretary of Housing and Urban Development is further directed to permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided herein) for dwellings in connection with which warranties are required by subsection (a) of this section to be made available in their appropriate local offices for inspection or for copying by any purchaser, homeowner, or warrantor during such hours or periods of time as the said Secretary may determine to be reasonable.

(Aug. 2, 1954, ch. 649, title VIII, § 801, 68 Stat. 642; Sept. 2, 1958, Pub. L. 85-857, § 13(s)(2), 72 Stat. 1266; May 25, 1967, Pub. L. 90-19, § 10(e), 81 Stat. 22.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1954, and not as a part of the National Housing Act, which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" and "Secretary" for "Federal Housing Commissioner" and "Commissioner" wherever appearing in subsecs. (a) and (b), respectively.

1958—Subsec. (a). Pub. L. 85-857 eliminated provisions that related to the Administrator of Veterans' Affairs and to mortgages guaranteed by him.

Subsec. (b). Pub. L. 85-857 eliminated provisions that related to the Administrator of Veterans' Affairs.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding Part 1 of Title 38, Veterans' Benefits.

§ 1701j-2. National Institute of Building Sciences

(a) Congressional findings and declaration of purpose

(1) The Congress finds (A) that the lack of an authoritative national source to make findings and to advise both the public and private sectors of the economy with respect to the use of building science and technology in achieving nationally acceptable standards and other technical provision for use in Federal, State, and local housing and building regulations is an obstacle to efforts by and imposes severe burdens upon all those who procure, design, construct, use, operate, maintain, and retire physical facilities, and frequently results in the failure to take full advantage of new and useful developments in technology which could improve our living environment; (B) that the establishment of model buildings codes or of a single national building code will not completely resolve the problem because of the difficulty at all levels of government in updating their housing and building regulations to reflect new developments in technology, as well as the irregularities and inconsistencies which arise in applying such requirements to particular localities or special local conditions; (C) that the lack of uniform housing and building regulatory provisions increases the costs of construction and thereby reduces the amount of housing and other community facilities which can be provided; and (D) that the existence of a single authoritative nationally recognized institution to provide for the evaluation of new technology could facilitate introduction of such innovations and their acceptance at the Federal, State, and local levels.

(2) The Congress further finds, however, that while an authoritative source of technical findings is needed, various private organizations and institutions, private industry, labor, and Federal and other governmental agencies and entities are presently engaged in building research, technology development, testing, and evaluation, standards and model code development and promulgation, and information dissemination. These existing activities should be encouraged and these capabilities effectively utilized wherever possible and appropriate to the purposes of this section.

(3) The Congress declares that an authoritative nongovernmental instrument needs to be created to address the problems and issues described in paragraph (1), that the creation of such an instrument should be initiated by the Government, with the advice and assistance of the National Academy of Sciences-National Academy of Engineering-National Research Council (hereinafter referred to as the "Academies-Research Council") and of the various sectors of the building community, including labor and management, technical experts in building science and technology, and the various levels of government.

(b) Establishment; advice and assistance of Academies-Research Council and other agencies and organizations knowledgeable in building technology

(1) There is authorized to be established, for the purposes described in subsection (a)(3) of this section, an appropriate nonprofit, nongovernmental instrument to be known as the National Institute of Building Sciences (hereinafter referred to as the "Institute"), which shall not be an agency or establishment of the United States Government. The Institute shall be subject to the provisions of this section and, to the extent consistent with this section, to a charter of the Congress if such a charter is requested and issued or to the District of Columbia Nonprofit Corporation Act [D.C. Code, § 29-1001 et seq.] if that is deemed preferable.

(2) The Academies-Research Council, along with other agencies and organizations which are knowledgeable in the field of building technology, shall advise and assist in (A) the establishment of the Institute; (B) the development of an organizational framework to encourage and provide for the maximum feasible participation of public and private scientific, technical, and financial organizations, institutions, and agencies now engaged in activities pertinent to the development, promulgation, and maintenance of performance criteria, standards, and other technical provisions for building codes and other regulations; and (C) the promulgation of appropriate organizational rules and procedures including those for the selection and operation of a technical staff, such rules and procedures to be based upon the primary object of promoting the public interest and insuring that the widest possible variety of interests and experience essential to the functions of the Institute are represented in the Institute's operations. Recommendations of the Academies-Research Council shall be based upon consultations with and recommendations from various private organizations and institutions, labor, private industry, and governmental agencies entities operating in the field, and the Consultative Council as provided for under subsection (c)(8) of this section.

(3) Nothing in this section shall be construed as expressing the intent of the Congress that the Academies-Research Council itself be required to assume any function or operation vested in the Institute by or under this section.

(c) Board of Directors; number; appointment; membership; terms of office; vacancies; appointment, etc., of Chairman and Vice Chairman; employees of United States; travel and subsistence expenses; appointment and compensation of president and other executive officers and employees; establishment, membership, and functions of Consultative Council

(1) The Institute shall have a Board of Directors (hereinafter referred to as the "Board") consisting of not less than fifteen nor more than twenty-one members, appointed by the President of the United States by and with the advice and consent of the Senate. The Board shall be representative of the various segments of the building community, of the various regions of the country, and of the consumers who are or would be affected by actions taken in the exercise of the functions and responsibilities of the Institute, and shall include (A) representatives of the construction industry, including representatives of construction labor organizations, product manufacturers, and builders, housing management experts, and experts in building standards, codes, and fire safety, and (B) members representative of the public interest in such numbers as may be necessary to assure that a majority of the members of the Board represent the public interest and that there is adequate consideration by the Institute of consumer interests in the exercise of its functions and responsibilities. Those representing the public interest on the Board shall include architects, professional engineers, officials of Federal, State, and local agencies, and representatives of consumer organizations. Such members of the Board shall hold no financial interest or membership in, nor be employed by, or receive other compensation from, any company, association, or other group associated with the manufacture, distribution, installation, or maintenance of specialized building products, equipment, systems, subsystems, or other construction materials and techniques for which there are available substitutes.

(2) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish the Institute as provided for under subsection (b)(1) of this section.

(3) The term of office of each member of the initial and succeeding Boards shall be three years; except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. No member shall be eligible to serve in excess of three consecutive terms of three years each. Notwithstanding the preceding provisions of this subsection, a member whose term has expired may serve until his successor has qualified.

(4) Any vacancy in the initial and succeeding Boards shall not affect its power, but shall be filled in the manner in which the original appointments were made, or, after the first five years of operation, as provided for by the organizational rules and procedures of the Institute.

(5) The President shall designate one of the members appointed to the initial Board as Chairman; thereafter, the members of the initial and succeeding Boards shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of their Members as Vice Chairman. Terms of the Chairman and Vice Chairman shall be for one year and no individual shall serve as Chairman or Vice Chairman for more than two consecutive terms.

(6) The members of the initial or succeeding Boards shall not, by reason of such membership, be deemed to be employees of the United States Government. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other ac-

tivities of the Board pursuant to this section, be entitled to receive compensation at the rate of $100 per day including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized under section 5703 of title 5, for persons in the Government service employed intermittently.

(7) The Institute shall have a president and such other executive officers and employees as may be appointed by the Board at rates of compensation fixed by the Board. No such executive officer or employee may receive any salary or other compensation from any source other than the Institute during the period of his employment by the Institute.

(8) The Institute shall establish, with the advice and assistance of the Academies-Research Council and other agencies and organizations which are knowledgeable in the field of building technology, a Consultative Council, membership in which shall be available to representatives of all appropriate private trade, professional, and labor organizations, private and public standards, code, and testing bodies, public regulatory agencies, and consumer groups, so as to insure a direct line of communication between such groups and the Institute and a vehicle for representative hearings on matters before the Institute.

(d) Financial restrictions and prohibitions

(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or other individual except as salary or reasonable compensation for services.

(3) The Institute shall not contribute to or otherwise support any political party or candidate for elective public office.

(e) Exercise of functions and responsibilities

(1) The Institute shall exercise its functions and responsibilities in four general areas, relating to building regulations, as follows:

(A) Development, promulgation, and maintenance of nationally recognized performance criteria, standards, and other technical provisions for maintenance of life, safety, health, and public welfare suitable for adoption by building regulating jurisdictions and agencies, including test methods and other evaluative techniques relating to building systems, subsystems, components, products, and materials with due regard for consumer problems.

(B) Evaluation and prequalification of existing and new building technology in accordance with subparagraph (A).

(C) Conduct of needed investigations in direct support of subparagraphs (A) and (B).

(D) Assembly, storage, and dissemination of technical data and other information directly related to subparagraphs (A), (B), and (C).

(2) The Institute in exercising its functions and responsibilities described in paragraph (1) shall assign and delegate, to the maximum extent possible, responsibility for conducting each of the needed activities described in paragraph (1) to one or more of the private organizations, institutions, agencies, and Federal and other governmental entities with a capacity to exercise or contribute to the exercise of such responsibility, monitor the performance achieved through assignment and delegation, and, when deemed necessary, reassign and delegate such responsibility.

(3) The Institute in exercising its functions and responsibilities under paragraphs (1) and (2) shall (A) give particular attention to the development of methods for encouraging all sectors of the economy to cooperate with the Institute and to accept and use its technical findings, and to accept and use the nationally recognized performance criteria, standards, and other technical provisions developed for use in Federal, State, and local building codes and other regulations which result from the program of the Institute; (B) seek to assure that its actions are coordinated with related requirements which are imposed in connection with community and environmental development generally; and (C) consult with the Department of Justice and other agencies of government to the extent necessary to insure that the national interest is protected and promoted in the exercise of its functions and responsibilities.

(f) Contract and grant authorization; donations; fees; amounts received in addition to amounts appropriated

(1) The Institute is authorized to accept contracts and grants from Federal, State, and local governmental agencies and other entities, and grants and donations from private organizations, institutions, and individuals.

(2) The Institute may, in accordance with rates and schedules established with guidance as provided under subsection (b)(2) of this section, establish fees and other charges for services provided by the Institute or under its authorization.

(3) Amounts received by the Institute under this section shall be in addition to any amounts which may be appropriated to provide its initial operating capital under subsection (h) of this section.

(g) Technical findings and performance criteria and standards; applicability and use by Federal departments, agencies, and establishments, and State and local governments; supporting grants and contracts

(1) Every department, agency, and establishment of the Federal Government, in carrying out any building or construction, or any building- or construction-related programs, which involves direct expenditures, and in developing technical requirements for any such building or construction, shall be encouraged to accept the technical findings of the Institute, or any nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute, which may be applicable.

(2) All projects and programs involving Federal assistance in the form of loans, grants, guarantees, insurance, or technical aid, or in any other form, shall be encouraged to accept, use, and comply with any of the technical findings of the Institute, or any nationally recognized performance criteria, standards, and other technical provisions for building codes and

other regulations brought about by the Institute, which may be applicable to the purposes for which the assistance is to be used.

(3) Every department, agency, and establishment of the Federal Government having responsibility for building or construction, or for building- or construction-related programs, is authorized and encouraged to request authorization and appropriations for grants to the Institute for its general support, and is authorized to contract with and accept contracts from the Institute for specific services where deemed appropriate by the responsible Federal official involved.

(4) The Institute shall establish and carry on a specific and continuing program of cooperation with the States and their political subdivisions designed to encourage their acceptance and its technical findings and of nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute. Such program shall include (A) efforts to encourage any changes in existing State and local law to utilize or embody such findings and regulatory provisions; and (B) assistance to States in the development of inservice training programs for building officials, and in the establishment of fully staffed and qualified State technical agencies to advise local officials on questions of technical interpretation.

(h) Authorization of appropriations

There is authorized to be appropriated to the Institute not to exceed $5,000,000 for the fiscal year 1975, and $5,000,000 for the fiscal year 1976, and $5,000,000 for each of the fiscal years 1977 and 1978 (with each appropriation to be available until expended), to provide the Institute with initial capital adequate for the exercise of its functions and responsibilities during such years; and thereafter the Institute shall be financially self-sustaining through the means described in subsection (f) of this section.

(i) Annual report to President for transmittal to Congress; contents

The Institute shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress within sixty days of its receipt. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Institute deems appropriate.

(Pub. L. 93-383, title VIII, § 809, Aug. 22, 1974, 88 Stat. 729; Pub. L. 94-375, § 24, Aug. 3, 1976, 90 Stat. 1078.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act [D.C. Code, § 29-1001 et seq.], referred to in subsec. (b)(1), is act Aug. 6, 1962, Pub. L. 87-569, 76 Stat. 265, as amended.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1976—Subsec. (h). Pub. L. 94-375 inserted ", and $5,000,000 for each of the fiscal years 1977 and 1978" following "fiscal year 1976".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1452b.

§ 1701k. Right to redeem property on which United States has lien

The right to redeem provided for by section 2410(c) of title 28, shall not arise in any case in which the subordinate lien or interest of the United States derives from the issuance of insurance under this chapter.

(Apr. 20, 1950, ch. 94, title V, § 505, 64 Stat. 81; Sept. 2, 1958, Pub. L. 85-857, § 13(q), 72 Stat. 1266.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1950, and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1958—Pub. L. 85-857 eliminated provisions which related to the right to redeem in cases in which the subordinate lien or interest derives from the issuance of guaranties of insurance under the Serviceman's Readjustment Act of 1944, as amended.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding Part 1 of Title 38, Veterans' Benefits.

SHORT TITLE

Section 1 of act Apr. 20, 1950, provided that the act should be popularly known as the Housing Act of 1950. For classification of this Act in the Code, see Tables Volume.

ACT APRIL 20, 1950, AS CONTROLLING LAW; HOUSING AND HOME FINANCE ADMINISTRATOR UNAFFECTED

Section 509 of act Apr. 20, 1950, provided that: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [For distribution of this Act see Tables Volume], the provisions of this Act shall be controlling: *Provided*, That nothing contained in this Act shall affect the authority of the Housing and Home Finance Administrator under title II of Public Law 266, Eighty-first Congress [Act Aug. 24, 1949, ch. 506, title II, 63 Stat. 657]."

POWERS AND AUTHORITIES OF ACT APRIL 20, 1950, AS CUMULATIVE; SEPARABILITY OF PROVISIONS

Section 510 of act Apr. 20, 1950, provided that: "Except as may be otherwise expressly provided in this Act [For distribution of this Act see Tables Volume], all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its applications to other persons and circumstances, but shall be confined in its operation to the provisions of this Act, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2410.

§ 1701*l*. Limitation on interest rates of insured mortgages; terms of sales

It is the intent of Congress that no sale of a dwelling on which a mortgage is insured under this chapter, shall be financed, while such mortgage is so insured, at an interest rate higher than that prescribed by the Secretary of Housing and Urban Development. It is the further intent of Congress that no such sale shall be made, while such mortgage is so insured, on terms less favorable to the purchaser as to amortization, retirement, foreclosure, or forfeiture than those contained in such mortgage.

(Apr. 20, 1950, ch. 94, title V, § 508, 64 Stat. 81; May 25, 1967, Pub. L. 90-19, § 8(e), 81 Stat. 22.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1950, and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

§ 1701*l*-1. Mortgage proceeds fraudulently misappropriated by mortgagor; recovery of deficiency after foreclosure

The Secretary of Housing and Urban Development shall take action to secure the payment of any deficiency after foreclosure on a mortgage insured or assisted under Federal law where the Secretary has reason to believe that the mortgage proceeds have been fraudulently misappropriated by the mortgagor.

(Pub. L. 93-383, title VIII, § 819, Aug. 22, 1974, 88 Stat. 740.)

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the National Housing Act which comprises this chapter.

§ 1701m. Credit and cancellation of notes transferred from Reconstruction Finance Corporation; net loss computation

The Secretary of the Treasury is authorized and directed from time to time to credit and cancel the note or notes of the Housing and Home Finance Administrator executed and delivered in connection with loans transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Agency pursuant to Reorganization Plan Numbered 23 of 1950 (64 Stat. 1279), to the extent of the net loss, as determined by the Secretary of the Treasury, sustained by said Agency in the liquidation of defaulted loans. The net loss shall be the sum of the unpaid principal and advances for care and preservation of collateral, together with accrued and unpaid interest on said principal and advances, and all expenses and costs (other than those subject to administrative expense limitations) in connection with the liquidation of defaulted loans, less the amount actually realized by the Housing and Home Finance Agency on account of such defaulted loans.

(July 14, 1952, ch. 723, § 9, 66 Stat. 603.)

REFERENCES IN TEXT

Reorganization Plan Numbered 23 of 1950, referred to in the text, is set out as a note under section 1701g of this title.

CODIFICATION

Section was enacted as a part of the Housing Act of 1952, and not as a part of the National Housing Act which comprises this chapter.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Housing and Home Finance Agency and its Administrator were transferred to and vested in the Secretary of Housing and Urban Development by Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of Title 42, The Public Health and Welfare.

TERMINATION, LIQUIDATION, AND ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished the Reconstruction Finance Corporation.

Termination on June 30, 1954 of Reconstruction Finance Corporation, and liquidation thereof, see sections 608 and 609 of Title 15, Commerce and Trade, and notes thereunder.

§ 1701n. Reduction of vulnerability of congested urban areas to enemy attack

The Department of Housing and Urban Development, and any other departments or agencies of the Federal Government having powers, functions, or duties with respect to housing under any law shall exercise such powers, functions, or duties in such manner as, consistent with the requirements thereof, will facilitate progress in the reduction of the vulnerability of congested urban areas to enemy attack.

(Aug. 2, 1954, ch. 649, title VIII, § 811, 68 Stat. 646; May 25, 1967, Pub. L. 90-19, § 10(g), 81 Stat. 23.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1954, and not as a part of the National Housing Act, which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Department of Housing and Urban Development" for "Housing and Home Finance Agency, including its constituent agencies".

§ 1701o. Reports to President and Congress

The Secretary of Housing and Urban Development shall, as soon as practicable during each calendar year, make a report to the President for submission to the Congress on all operations and programs (including but not limited to the insurance, urban renewal, public housing, and rent supplement programs) under the jurisdiction of the Department of Housing and Urban Development during the previous calendar year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary to implement more effectively Congressional policies and purposes, for establishing new or alternative programs.

(Aug. 2, 1954, ch. 649, title VIII, § 802(a), 68 Stat. 642; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1101, 79 Stat. 502; May 25, 1967, Pub. L. 90-19, § 10(f), 81 Stat. 23.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1954, and not as a part of the National Housing Act, which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 struck out "FHA" preceding "insurance" and substituted "Secretary of Housing and Urban Development" and "Department of Housing and Urban Development" for "Housing and Home Finance Administrator" and "Housing and Home Finance Agency", respectively.

1965—Pub. L. 89-117 specifically included FHA insurance, urban renewal, public housing, and rent supplement programs within the operation and programs of the Housing and Home Finance Agency which the report shall cover and added the requirement that the report contain recommendations for improving programs and for new or alternative programs.

CROSS REFERENCES

Annual report of Federal Home Loan Bank Board including Federal Savings and Loan Insurance Corporation, see section 1437 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701p of this title.

§ 1701p. Contents of report to President and Congress

The annual report made by the Secretary of Housing and Urban Development to the President for submission to the Congress on all operations provided for by section 1701o of this title shall contain pertinent information with respect to all projects for which any loan, contribution, or grant has been made by the Department of Housing and Urban Development, including the amount of loans, contributions and grants contracted for, and shall also contain pertinent information with respect to all builders' cost certifications required by section 1715r of this title, including information as to the amounts paid by mortgagors to mortgagees for application to the reduction of the principal obligations of the mortgages pursuant to that section.

(Aug. 2, 1954, ch. 649, title VIII, § 817, 68 Stat. 648; May 25, 1967, Pub. L. 90-19, § 10(j), 81 Stat. 23.)

CODIFICATION

Section was enacted as a part of the Housing Act of 1954, and not as a part of the National Housing Act, which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" and "Department of Housing and Urban Development" for "Housing and Home Finance Administrator" and "Housing and Home Finance Agency", respectively.

§ 1701q. Loans for housing and related facilities for elderly or handicapped families

(a) Purpose; authorization; amount; terms and conditions; revolving fund; issuance of obligations; aggregate amount; purchase and sale by Secretary of Treasury; public debt transactions; availability of fund; servicing of mortgage loans

(1) The purpose of this section is to assist private nonprofit corporations, limited profit sponsors, consumer cooperatives, or public bodies or agencies to provide housing and related facilities for elderly or handicapped families.

(2) In order to carry out the purpose of this section, the Secretary may make loans to any corporation (as defined in subsection (d)(2) of this section), to any limited profit sponsor approved by the Secretary, to any consumer cooperative, or to any public body or agencies for the provision of rental or cooperative housing and related facilities for elderly or handicapped families, except that (A) no such loan shall be made unless the applicant shows that it is unable to secure the necessary funds from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this section, (B) no such loan shall be made unless the Secretary finds that the construction will be undertaken in an economical manner and that it will not be of elaborate or extravagant design or materials, and (C) no such loan shall be made to a public body or agency unless it certifies that it is not receiving financial assistance from the United States exclusively pursuant to the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.].

(3) A loan under this section may be in an amount not exceeding the total development cost (as defined in subsection (d)(3) of this section), as determined by the Secretary, except that in the case of other than a corporation, consumer cooperative or public body or agency the amount of the loan shall not exceed 90 per centum of the development cost; shall be secured in such manner and be repaid within such period, not exceeding fifty years, as may be determined by him; and shall bear interest at a rate which is not more than a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of 1 per centum, plus an allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

(4)(A) There is authorized to be appropriated for the purposes of this section not to exceed $500,000,000, which amount shall be increased by $150,000,000 on July 1, 1969. Amounts so appropriated, and the proceeds from notes or other obligations issued under subparagraph (B), shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(B)(i) To carry out the purposes of this section, the Secretary is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount not to exceed $1,475,000,000, which amount shall be increased

to $2,387,500,000 on October 1, 1977, and to $3,300,000,000 on October 1, 1978 in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act; and the purposes for which securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. The Secretary may not issue notes or other obligations to the Secretary of the Treasury pursuant to this section in an aggregate amount exceeding $800,000,000 except as approved in appropriation Acts.

(ii) The receipts and disbursements of the fund shall not be included in the total of the Budget of the United States Government and shall be exempt from any limitation on annual expenditures or net lending.

(C) Amounts in the fund shall be available to the Secretary for the purpose of making loans under this section and for paying interest on obligations issued under subparagraph (B). The aggregate loans made under this section in any fiscal year shall not exceed the limits on such lending authority established for such year in appropriation Acts.

(5) To the maximum extent practicable, the Secretary shall use the services and facilities of the private mortgage industry in servicing mortgage loans made under this section.

(b) Functions, powers, and duties of Secretary

In the performance of, and with respect to, the functions, powers, and duties vested in him by this section the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties set forth in section 402 (except subsection (c)(2)) of the Housing Act of 1950 [12 U.S.C. 1749a].

(c) Use of housing for transient or hotel purposes; prevailing wage rates

(1) Housing constructed with a loan made under this section shall not be used for transient or hotel purposes while such loan is outstanding.

(2) As used in paragraph (1), the term "transient or hotel purposes" shall have such meaning as may be prescribed by the Secretary, but rental for any period less than thirty days shall in any event constitute use for such purposes. The provisions of subsections (f) through (j) of section 513 of the National Housing Act (as added by section 132 of the Housing Act of 1954) [12 U.S.C. 1731b(f)–(j)] shall apply in the case of violations of paragraph (1) as though the housing described in such subsection were multifamily housing (as defined in section 513(e)(2) of the National Housing Act) [12 U.S.C. 1731b(e)(2)] with respect to which a mortgage is insured under such Act.

(3) The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931, as amended (the Davis-Bacon Act) [40 U.S.C. 276a et seq.]; but the Secretary may waive the application of this paragraph in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

(d) Definitions

As used in this section—

(1) The term "housing" means structures suitable for dwelling use by elderly or handicapped families which are (A) new structures, or (B) provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for proposed dwelling use by such families.

(2) The term "corporation" means any incorporated private institution or foundation no part of the net earnings of which inures to the benefit of any private shareholder, contributor, or individual, if such institution or foundation is approved by the Secretary as to financial responsibility.

(3) The term "development cost" means costs of construction of housing and of other related facilities, and of the land on which it is located, including necessary site improvement.

(4) The term "elderly or handicapped families" means families which consist of two or more persons and the head of which (or his spouse) is sixty-two years of age or over or is handicapped, and such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered handicapped if such person is a developmentally disabled individual as defined in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1950. The Secretary shall prescribe

such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility, of families and persons for admission to and occupancy of housing constructed with assistance under this section. Notwithstanding the preceding provisions of this paragraph, the term "elderly or handicapped families" includes two or more elderly or handicapped persons living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be essential to their care or well-being, and the surviving member or members of any family described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the family at the time of his or her death.

(5) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "construction" means erection of new structures or rehabilitation, alteration, conversion, or improvement of existing structures.

(8) The term "related facilities" means (A) new structures suitable for use by elderly or handicapped families residing in the project or in the area as cafeterias or dining halls, community rooms or buildings, workshops, or infirmaries, or other inpatient or outpatient health facilities, or other essential service facilities, and (B) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvements of existing structures which are otherwise inadequate for such uses.

(e) Exception

Nothing in this section or in regulations promulgated under this section shall prevent a corporation or consumer cooperative from obtaining a loan under this section for the provision of housing and related facilities for elderly or handicapped families, notwithstanding the fact that such corporation or cooperative has theretofore obtained a commitment from the Federal Housing Administration for mortgage insurance under section 231 of the National Housing Act [12 U.S.C. 1715v] with respect to the housing involved, if (1) such corporation or cooperative is otherwise eligible for such loan under this section, (2) such commitment was obtained prior to June 30, 1961, and (3) the Secretary determines that the financing of such housing through a loan under this section rather than through mortgage insurance under such section 231 [12 U.S.C. 1715v] is necessary or desirable in order to avoid hardship for the elderly or handicapped families who are the prospective tenants of such housing.

(f) Assurance by Secretary of applicable State and local plans responding to Federal program requirements for assisted housing and related facilities

In carrying out the provisions of this section, the Secretary shall seek to assure, pursuant to applicable regulations, that housing and related facilities assisted under this section will be in appropriate support of, and supported by, applicable State and local plans which respond to Federal program requirements by providing an assured range of necessary services for individuals occupying such housing (which services may include, among others, health, continuing education, welfare, informational, recreational, homemaker, counseling, and referral services, transportation where necessary to facilitate access to social services, and services designed to encourage and assist recipients to use the services and facilities available to them), including plans approved by the Secretary of Health, Education, and Welfare pursuant to section 134 of the Mental Retardation Facilities and Community Mental Health Center Construction Act of 1963 [42 U.S.C. 6063] or pursuant to title III of the Oider Americans Act of 1965 [42 U.S.C. 3021 et seq.].

(Pub. L. 86-372, title II, § 202, Sept. 23, 1959, 73 Stat. 667; Pub. L. 87-70, title II, § 201, June 30, 1961, 75 Stat. 162; Pub. L. 87-723, § 3, Sept. 28, 1962, 76 Stat. 670; Pub. L. 88-158, Oct. 24, 1963, 77 Stat. 278; Pub. L. 88-560, title II, §§ 201, 203(a)(2), Sept. 2, 1964, 78 Stat. 783, 784; Pub. L. 89-117, title I, § 105(a), (b)(1), formerly § 105, Aug. 10, 1965, 79 Stat. 457, renumbered Pub. L. 89-754, title X, § 1001(1), (2), Nov. 3, 1966, 80 Stat. 1284; Pub. L. 90-19, § 16(a), May 25, 1967, 81 Stat. 25; Pub. L. 90-448, title XVII, § 1706, Aug. 1, 1968, 82 Stat. 605; Pub. L. 91-152, title II, § 218, Dec. 24, 1969, 83 Stat. 390; Pub. L. 93-383, title II, § 210(a)-(f), Aug. 22, 1974, 88 Stat. 669-671; Pub. L. 94-375, § 11, Aug. 3, 1976, 90 Stat. 1074.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (a)(2), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, and is classified to chapter 8 (§ 1437 et seq.) of Title 42, The Public Health and Welfare.

The Second Liberty Bond Act, referred to in subsec. (a)(4)(B)(i), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

That Act, referred to in subsec. (a)(4)(B)(i), is the Second Liberty Bond Act.

Such Act, referred to in subsec. (c)(2), means the National Housing Act, which is classified to this chapter.

The Act of March 3, 1931, as amended (the Davis-Bacon Act), referred to in subsec. (c)(3), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, which is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

A developmentally disabled individual "as defined in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1950", referred to in subsec. (d)(4), probably means "as defined in section 102(a)(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1970". Such section 102(a)(5), in part, amended section 401 of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended (42 U.S.C. 2691), by adding a subsec. (*l*) which contained a definition of "developmental disability". Section 401 of the 1963 Act (42 U.S.C. 2691) was repealed by Pub. L. 94-103, title III, § 302(c), Oct. 4, 1975, 89 Stat. 507, and is now covered by section 102 of the Developmental Disabilities Services and Facilities Construction Act (42 U.S.C. 6001), as amended generally by Pub. L. 94-103, title I, § 125, Oct. 4, 1975, 89 Stat. 496.

Section 134 of the Mental Retardation Facilities and Community Mental Health Center Construction Act of 1963, referred to in subsec. (f), which was formerly classified to section 2674 of Title 42, The Public Health and Welfare, was renumbered as section "133" by section 302(a) of Pub. L. 94-103, Oct. 4, 1975, 89 Stat. 506, and is now classified to section 6063 of Title 42.

Title III of the Older Americans Act of 1965, also referred to in subsec. (f), is classified to subchapter III of chapter 35 (§ 3021 et seq.) of Title 42.

CODIFICATION

Section was enacted as a part of the Housing Act of 1959, and not part of the National Housing Act which comprises this chapter.

AMENDMENTS

1976—Subsec. (a)(3). Pub. L. 94-375, § 11(c)(1), substituted "average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made" for "current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans".

Subsec. (a)(4)(B)(i). Pub. L. 94-375, § 11(a), (c)(2), substituted "$1,475,000,000, which amount shall be increased to $2,387,500,000 on October 1, 1977, and to $3,300,000,000 on October 1, 1978" for "$800,000,000" and "the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made" for "the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations", and added provision restricting the amount of notes or obligations issued to the Secretary of the Treasury to not more than $800,000,000.

Subsec. (d)(4). Pub. L. 94-375, § 11(b), included in the definition of "elderly or handicapped families" two or more elderly or handicapped persons living together, one such person and another providing care for the first, or a surviving member of the family who was living in the unit at the time another member died.

1974—Subsec. (a)(3). Pub. L. 93-383, § 210(a), substituted provisions authorizing the Secretary of the Treasury to determine the interest rate, for provisions authorizing the Secretary of Housing and Urban Development to determine the interest rate.

Subsec. (a)(4). Pub. L. 93-383, § 210(d), redesignated existing provision as subsec. (a)(4)(A) and, as so redesignated, added ", and the proceeds from notes or other obligations issued under subparagraph (B)," following "Amounts so appropriated", and added subsecs. (a)(4) (B) and (C).

Subsec. (a)(5). Pub. L. 93-383, § 210(e), added subsec. (a)(5).

Subsec. (d)(4). Pub. L. 93-383, § 210(b), substituted "an impairment" for "a physical impairment" and added provisions relating to developmentally disabled individuals.

Subsec. (d)(8). Pub. L. 93-383, § 210(f), added "residing in the project or in the area" following "families".

Subsec. (f). Pub. L. 93-383, § 210(c), added subsec. (f).

1969—Subsec. (a)(4). Pub. L. 91-152 increased by $150,000,000 on July 1, 1969 the amount authorized to be appropriated for the purposes of this section.

1968—Subsec. (a)(1). Pub. L. 90-448, § 1706(1), authorized assistance to limited profit sponsors.

Subsec. (a)(2). Pub. L. 90-448, § 1706(2), authorized loans to any limited profit sponsor approved by the Secretary.

Subsec. (a)(3). Pub. L. 90-448, § 1706(3), limited the amount of the loan to not more than 90 per centum of the development cost in the case of other than a corporation, consumer cooperative, or public body or agency.

1967—Pub. L. 90-19, § 16(a)(1), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a)(2) to (4), (b), (c)(2), (3), (d)(2), (4), and (e) of this section.

Subsec. (c)(2). Pub. L. 90-19, § 16(a)(2), struck out the end provision reading ", except that for purposes of this subsection the Administrator shall perform the functions vested in the Commissioner by such section 513".

Subsec. (d)(6). Pub. L. 90-19, § 16(a)(3), substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

1965—Subsec. (a)(3). Pub. L. 89-117, § 105(b)(1), substituted "the lower of (A) 3 per centum per annum, or" for "the higher of (A) 2¾ per centum per annum, or".

Subsec. (a)(4). Pub. L. 89-117, § 105(a), increased the amount authorized to be appropriated from $350,000,000 to $500,000,000.

1964—Subsecs. (a)(1), (2). Pub. L. 88-560, § 203(a)(2)(A), substituted "elderly or handicapped families" for "elderly families and elderly persons" in pars. (1) and (2).

Subsec. (a)(4). Pub. L. 88-560, § 201, increased the amount authorized to be appropriated from $275,000,000 to $350,000,000.

Subsec. (d)(1). Pub. L. 88-560, § 203(a)(2)(B), included in the definition of "housing" structures suitable for dwelling use by handicapped families, designated existing provisions as subpar. (A), and added subpar. (B).

Subsec. (d)(4). Pub. L. 88-560, § 203(a)(2)(C), substituted the definitions of "elderly or handicapped families" and when "a person shall be considered handicapped" for former provisions defining "elderly families" as "families the head of which (or his spouse) is sixty-two years of age or over" and "elderly persons" as "persons who are sixty-two years of age or over".

Subsec. (d)(7). Pub. L. 88-560, § 203(a)(2)(D), redefined "construction" to include rehabilitation, alteration, conversion, or improvement of existing structures.

Subsec. (d)(8). Pub. L. 88-560, § 203 (a)(2)(E), redefined "existing facilities" by designating existing provisions as clause (A), inserting in clause (A) "by elderly or handicapped families" and "workshops", and adding clause (B).

Subsec. (e). Pub. L. 88-560, § 203(a)(2)(A), substituted "elderly or handicapped families" for "elderly families and elderly persons" in two instances.

1963—Subsec. (a)(4). Pub. L. 88-158 increased the amount authorized to be appropriated from $225,000,000 to $275,000,000.

1962—Subsec. (a)(4). Pub. L. 87-723, § 3(a), increased the amount authorized to be appropriated from $125,000,000 to $225,000,000.

Subsec. (d)(1). Pub. L. 87-723, § 3(b)(1), redesignated subsec. (d)(1)(A) as entire subsec. (d)(1) and eliminated subsec. (d)(1)(B) which included in the definition of "housing" dwelling facilities provided by rehabilitation, alteration, conversion, or improvement of existing structures which were otherwise inadequate for proposed dwellings used by elderly families and persons.

Subsec. (d)(7). Pub. L. 87-723, § 3(b)(2), deleted ", or rehabilitation, alteration, conversion, or improvement of existing structures" following "new structures".

Subsec. (d)(8). Pub. L. 87-723, § 3(b)(3) redesignated subsec. (d)(8)(A) as entire subsec. (d)(8) and eliminated subsec. (d)(8)(B) which included in the definition of "related facilities" structures suitable for essential service facilities provided by rehabilitation, alteration, conversion, or improvement of existing structures which were otherwise inadequate for essential service facilities.

1961—Subsec. (a)(1). Pub. L. 87-70, § 201(a)(1), authorized assistance for consumer cooperatives and public bodies and agencies.

Subsec. (a)(2). Pub. L. 87-70, § 201(a)(2), authorized loans to consumer cooperatives and to public bodies or

agencies, and prohibited loans to public bodies or agencies unless they certify that they are not receiving financial assistance exclusively pursuant to the United States Housing Act of 1937.

Subsec. (a)(3). Pub. L. 87-70, § 201(a)(3), (b), substituted "loan under this section" for "loan to a corporation under this section", and "may be in an amount not exceeding the total development cost" for "may be in an amount not exceeding 98 per centum of the total development cost".

Subsec. (a)(4). Pub. L. 87-70, § 201(c), increased the amount authorized to be appropriated from $50,000,000 to $125,000,000, and eliminated provisions which limited the amount outstanding at any one time for related facilities to not more than $5,000,000.

Subsec. (c)(3). Pub. L. 87-70, § 201(a)(4), substituted "credited to the corporation, cooperative, or public body or agency undertaking" for "credited to the corporation undertaking".

Subsec. (e). Pub. L. 87-70, § 201(d), added subsec. (e).

EFFECTIVE DATE OF 1965 AMENDMENT

Section 105(b)(2) of Pub. L. 89-117 as added by Pub. L. 89-754, title X, § 1001(3), Nov. 3, 1966, 80 Stat. 1284, provided that: "The interest rate provided by the amendment made in paragraph (1) [to subsec. (a)(3) of this section] shall be applicable (A) with respect to any loan made on or after August 10, 1965, and (B) with respect to any loan made prior to such date if construction of the housing or related facilities to be assisted by such loan was not commenced prior to such date, and not completed prior to the filing of an application for the benefits of such interest rate."

EFFECTIVE DATE OF 1962 AMENDMENT

Section 3(b) of Pub. L. 87-723 provided in part that the amendments of subsecs. (d)(1), (7), (8) of this section by Pub. L. 87-723 shall be effective with respect to applications for loans made under this section after Sept. 28, 1962.

FEASIBILITY AND MARKETABILITY OF PROJECTS; ASSISTANCE FOR PROJECTS SERVICING LOW AND MODERATE INCOME FAMILIES

Section 210(g) of Pub. L. 93-383 provided that:

"(1) In determining the feasibility and marketability of a project under section 202 of the Housing Act of 1959 [this section], the Secretary shall consider the availability of monthly assistance payments pursuant to section 8 of the United States Housing Act of 1937 [section 1437f of Title 42] with respect to such a project.

"(2) The Secretary shall insure that with the original approval of a project authorized pursuant to section 202 of the Housing Act of 1959, and thereafter at each annual revision of the assistance contract under section 8 of the United States Housing Act of 1937 with respect to units in such project, the project will serve both low- and moderate-income families in a mix which he determines to be appropriate for the area and for viable operation of the project; except that the Secretary shall not permit maintenance of vacancies to await tenants of one income level where tenants of another income level are available."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701s, 1715*l*, 1715v, 1715z-1 of this title; title 7 section 2012; title 42 sections 1402, 1436, 1437f, 1438, 1439, 1485.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47-801a of the District of Columbia Code.

§ 1701r. Congressional findings respecting housing for senior citizens

The Congress finds that there is a large and growing need for suitable housing for older people both in urban and rural areas. Our older citizens face special problems in meeting their housing needs because of the prevalence of modest and limited incomes among the elderly, their difficulty in obtaining liberal long-term home mortgage credit, and their need for housing planned and designed to include features necessary to the safety and convenience of the occupants in a suitable neighborhood environment. The Congress further finds that the present programs for housing the elderly under the Department of Housing and Urban Development have proven the value of Federal credit assistance in this field and at the same time demonstrated the urgent need for an expanded and more comprehensive effort to meet our responsibilities to our senior citizens.

(Pub. L. 87-723, § 2, Sept. 28, 1962, 76 Stat. 670; Pub. L. 90-19, § 19, May 25, 1967, 81 Stat. 25.)

CODIFICATION

Section was enacted as a part of the Senior Citizens Housing Act of 1962, and not part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Department of Housing and Urban Development" for "Housing and Home Finance Agency" in the second sentence.

§ 1701s. Rent supplement payments for lower income families who are elderly, handicapped, victims of natural disaster, or occupants of substandard housing

(a) Authorization; maximum term; maximum aggregate amount

The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make, and contract to make, annual payments to a "housing owner" on behalf of "qualified tenants", as those terms are defined herein, in such amounts and under such circumstances as are prescribed in or pursuant to this section. In no case shall a contract provide for such payments with respect to any housing for a period exceeding forty years. The aggregate amount of the contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contract shall not exceed $150,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $40,000,000, on July 1, 1969, by $100,000,000 on July 1, 1970, and by $40,000,000 on July 1, 1971.

(b) Definition of housing owner; limitation on payments to housing owner

As used in this section, the term "housing owner" means a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is a mortgagor under section 1715*l*(d)(3) of this title and which, after August 10, 1965, has been approved for mortgage insurance thereunder and has been approved for receiving the benefits of this section: *Provided*, That, except as provided in subsection (h) of this section, no payments under this section may be made with respect to any property financed with a mortgage receiving the benefits of the interest rate provided for in the proviso in section 1715*l*(d)(5) of this title. Such term

also includes a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is the owner of a rental or cooperative housing project financed under a State or local program providing assistance through loans, loan insurance, or tax abatement and which may involve either new or existing construction and which is approved for receiving the benefits of this section. Subject to the limitations provided in subsection (h) of this section, the term "housing owner" also has the meaning prescribed in such subsection. Nothing in this section shall be construed as preventing payments to a housing owner with respect to projects in which all or part of the dwelling units do not contain kitchen facilities; but of the total amount of contracts to make annual payments approved in appropriation Acts pursuant to subsection (a) after December 31, 1970, not more than 10 per centum in the aggregate shall be made with respect to such projects.

(c) Definition of qualified tenant; definitions concerning cooperative members

As used in this section, the term "qualified tenant" means any individual or family who has, pursuant to criteria and procedures established by the Secretary, been determined—

(1) to have an income below the maximum amount which can be established in the area, pursuant to the limitations prescribed in sections 1402(2) and 1415(7)(b)(ii) of title 42, for occupancy in public housing dwellings; and

(2) to be one of the following—

(A) displaced by governmental action;

(B) sixty-two years of age or older (or, in the case of a family to have a head who is, or whose spouse is, sixty-two years of age or over);

(C) physically handicapped (or, in the case of a family, to have a head who is, or whose spouse is, physically handicapped);

(D) occupying substandard housing;

(E) an occupant or former occupant of a dwelling which is (or was) situated in an area determined by the Small Business Administration, subsequent to April 1, 1965, to have been affected by a disaster, and which has been extensively damaged or destroyed as the result of such disaster; or

(F) a family whose head, or spouse, is a member of the Armed Forces of the United States who is serving on active duty.

The terms "qualified tenant" and "tenant" include a member of a cooperative who satisfies the foregoing requirements and who, upon resale of his membership to the cooperative, will not be reimbursed for any equity increment accumulated through payments under this section. With respect to members of a cooperative, the terms "rental" and "rental charges" mean the charges under the occupancy agreements between such members and the cooperative.

(d) Maximum amount of annual payment

The amount of the annual payment with respect to any dwelling unit shall not exceed the amount by which the fair market rental for such unit exceeds one-fourth of the tenant's income as determined by the Secretary pursuant to procedures and regulations established by him. In determining the income of any tenant for the purposes of this section, there shall be deducted an amount equal to $300 for each minor person who is a member of the immediate family of such tenant and living with such tenant, and the earnings of any such minor person shall not be included in the income of such tenant.

(e) Criteria and procedure for determining eligibility and rental charges; certificates as to facts concerning applicant; recertification of income; agreements for services required in selection of tenants; delegation of authority to issue certificates

(1) For purposes of carrying out the provisions of this section, the Secretary shall establish criteria and procedures for determining the eligibility of occupants and rental charges, including criteria and procedures with respect to periodic review of tenant incomes and periodic adjustment of rental charges. The Secretary shall issue, upon the request of a housing owner, certificates as to the following facts concerning the individuals and families applying for admission to, or residing in, dwellings of such owner:

(A) the income of the individual or family; and

(B) whether the individual or family was displaced by governmental action, is elderly, is physically handicapped, or is (or was) occupying substandard housing or housing extensively damaged or destroyed as the result of a natural disaster or is a member of the Armed Forces of the United States serving on active duty.

(2) Procedures adopted by the Secretary hereunder shall provide for recertifications of the incomes of occupants, except the elderly, at intervals of two years (or at shorter intervals in cases where the Secretary may deem it desirable) for the purpose of adjusting rental charges and annual payments on the basis of occupants' incomes, but in no event shall rental charges adjusted under this section for any dwelling exceed the fair market rental of the dwelling.

(3) The Secretary may enter into agreements, or authorize housing owners to enter into agreements, with public or private agencies for services required in the selection of qualified tenants, including those who may be approved, on the basis of the probability of future increases in their incomes, as lessees under an option to purchase (which will give such approved qualified tenants an exclusive right to purchase at a price established or determined as provided in the option) dwellings, and in the establishment of rentals. The Secretary is authorized (without limiting his authority under any other provision of law) to delegate to any such public or private agency his authority to issue certificates pursuant to this subsection.

(4) No payments under this section may be made with respect to any property for which the costs of operation (including wages and salaries) are determined by the Secretary to be greater than similar costs of operation of similar housing in the community where the property is situated.

(f) Authority of Secretary

The Secretary is authorized to make such rules and regulations, to enter into such agreements, and to adopt such procedures as he may deem necessary or desirable to carry out the provisions of this section. Nothing contained in this section shall affect the authority of the Secretary of Housing and Urban Development with respect to any housing assisted under this section, section 1715*l*(d)(3), section 1715v(c)(3), or section 1715z–1 or section 1701q of this title, including the authority to prescribe occupancy requirements under other provisions of law or to determine the portion of any such housing which may be occupied by qualified tenants.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including, but not limited to, such sums as may be necessary to make annual payments as prescribed in this section, pay for services provided under (or pursuant to agreements entered into under) subsection (e) of this section, and provide administrative expenses.

(h) Additional definition of housing owner; restrictions on payments

(1) For the purpose of assisting housing under this section on an experimental basis, subject to the limitations of this subsection, the term "housing owner" (in addition to the meaning prescribed in subsection (b) of this section) includes—

(A) a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is a mortgagor under a mortgage which receives the benefits of the interest rate provided for in the proviso in section 1715*l*(d)(5) of this title and which, after August 10, 1965, has been approved for mortgage insurance under section 1715*l*(d)(3) of this title and has been approved for receiving the benefits of this section;

(B) a private nonprofit corporation or other private nonprofit legal entity which is a mortgagor under a mortgage insured under section 1715v(c)(3) of this title and which, after August 10, 1965, has obtained final endorsement of such mortgage for mortgage insurance and has been approved for receiving the benefits of this section;

(C) a private nonprofit corporation, a public body or agency, or a cooperative housing corporation, which is a borrower under section 1701q of this title and has been approved for receiving the benefits of this section: *Provided,* That, with respect to properties financed with loans under such section made on or before August 10, 1965, payments shall not be made with respect to more than 20 per centum of the dwelling units in any property so financed; and

(D) a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited divided [1] legal entity, or a cooperative housing corporation, which is assisted under section 1715z–1 of this title and which has been approved for receiving the benefits of this section: *Provided,* That payments shall not be made with respect to more than 20 per centum of the dwelling units in any property so financed, except that the foregoing limitation may be increased to 40 per centum of the dwelling units in any such property if the Secretary determines that such increase is necessary and desirable in order to provide additional housing for individuals and families meeting the requirements of subsection (c) of this section.

(2) Of the amounts approved in appropriation Acts pursuant to subsection (a) of this section for payments under this section in any year, not more than 5 per centum in the aggregate shall be paid with respect to properties of housing owners as defined in paragraph (1)(A) of this subsection, and not more than 5 per centum in the aggregate shall be paid with respect to properties of housing owners as defined in paragraphs (1)(B) and (1)(C) of this subsection.

(Pub. L. 89–117, title I, § 101(a)–(e), (g), (h), (j), Aug. 10, 1965, 79 Stat. 451–453; Pub. L. 90–19, § 22(a), (c), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title II, §§ 201(e), 202, title XI, § 1106(b), Aug. 1, 1968, 82 Stat. 502, 503, 567; Pub. L. 91–152, title I, § 112, Dec. 24, 1969, 83 Stat. 383; Pub. L. 91–609, title I, §§ 103, 114[115](c), 118(b), 120(a), (b), Dec. 31, 1970, 84 Stat. 1771, 1774, 1775.)

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1965, and not as a part of the National Housing Act which comprises this chapter.

Section comprises subsecs. (a) to (e), (g), (h), and (j) of section 101 of Pub. L. 89–117. Subsecs. (a) to (e) of this section constitute subsecs. (a) to (e) of section 101, and subsecs. (f), (g) and (h) of this section constitute subsecs. (g), (h) and (j), respectively, of section 101. Subsecs. (f) and (i) of section 101 of Pub. L. 89–117 are classified to sections 1451(c) and 1465(c)(2) of Title 42.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–609, § 103, increased the maximum amount of payments by $40,000,000 on July 1, 1971.

Subsec. (b). Pub. L. 91–609, §§ 114[115](c), 118(b), authorized payments to housing owners with respect to projects with dwelling units without kitchen facilities and provided for percentage limitation on payments to housing owner, and substituted "which may involve either new or existing construction and which" for "which prior to completion of construction or rehabilitation" preceding "is approved", respectively.

Subsec. (c)(2)(F). Pub. L. 91–609, § 120(a), added par. (F).

Subsec. (e)(1)(B). Pub. L. 91–609, § 120(b), provided for issuance of certificates with respect to whether the individual or family is a member of the Armed Forces of the United States serving on active duty.

1969—Subsec. (h)(1)(D). Pub. L. 91–152 added the exception which authorized the Secretary to increase payments to 40 per centum of the dwelling units under the specified conditions.

1968—Subsec. (a). Pub. L. 90–448, § 202(a), increased the maximum amount of payments by $40,000,000 on July 1, 1969, and by $100,000,000 on July 1, 1970.

Subsec. (b). Pub. L. 90–448, § 202(b), included within the definition of "housing owner" a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividended legal entity, or a cooperative housing corporation,

[1] So in original. Probably should be "dividend".

which is the owner of a rental or cooperative housing project financed under a State or local program.

Subsec. (c)(2). Pub. L. 90-448, § 1106(b), substituted "affected by a disaster" for "affected by a natural disaster" in cl. (E).

Subsec. (d). Pub. L. 90-448, § 201(e)(1), inserted provisions authorizing, in determining the income of any tenant, a deduction of an amount equal to $300 for each minor person who is a member of the immediate family of the tenant and living with the tenant, and directing that the earnings of any such minor shall not be included in the income of such tenant.

Subsec. (f). Pub. L. 90-448, § 201(e)(2), inserted reference to section 1715z-1 of this title.

Subsec. (h). Pub. L. 90-448, § 201(e)(3), inserted subpar. (D).

1967—Pub. L. 90-19, § 22(a), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (c) to (f) of this section.

Subsec. (a). Pub. L. 90-19, § 22(c)(1), substituted "Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary')" for "Housing and Home Finance Administrator (hereinafter referred to as the 'Administrator')".

Subsec. (f). Pub. L. 90-19, § 22(c)(2), consolidated in the Secretary of Housing and Urban Development the authorities of the Federal Housing Commissioner and the Housing and Home Finance Administrator with respect to housing assisted under sections 1715(d)(3) and 1715v(c)(3), and section 1701q of this title, respectively.

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 [see Short Title note set out under section 1701 of this title], not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of Title 42, the Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715*l*, 1715z of this title; title 40 section 484b; title 42 section 1439.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47-801a of the District of Columbia Code.

§ 1701t. Congressional affirmation of national goal of decent homes and suitable living environment for American families

The Congress affirms the national goal, as set forth in section 1441 of title 42, of "a decent home and a suitable living environment for every American family".

The Congress finds that this goal has not been fully realized for many of the Nation's lower income families; that this is a matter of grave national concern; and that there exist in the public and private sectors of the economy the resources and capabilities necessary to the full realization of this goal.

The Congress declares that in the administration of those housing programs authorized by this Act which are designed to assist families with incomes so low that they could not otherwise decently house themselves, and of other Government programs designed to assist in the provision of housing for such families, the highest priority and emphasis should be given to meeting the housing needs of those families for which the national goal has not become a reality; and in the carrying out of such programs there should be the fullest practicable utilization of the resources and capabilities of private enterprise and of individual self-help techniques.

(Pub. L. 90-448, § 2, Aug. 1, 1968, 82 Stat. 476.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 90-448, popularly known as the Housing and Urban Development Act of 1968. For classification of Pub. L. 90-448 in this Code, see Short Title of 1968 Amendments note set out under section 1701 of this title.

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1968, and not as a part of the National Housing Act which comprises this chapter.

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, 1968, [see Short Title note set out under section 1701 of this title], 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of Title 42, the Public Health and Welfare.

NATIONAL ADVISORY COMMISSION ON LOW INCOME HOUSING

Section 110 of Pub. L. 90-448 established the National Advisory Commission on Low Income Housing; provided for the appointment of members and the filling of vacancies; fixed the quorum number and the number necessary to conduct hearings; provided that the Commission study ways of bringing safe and sanitary housing to low income families, utilize services of private research organizations, and coordinate its investigation with the Banking and Currency Committees of the Senate and House; required that an interim report be submitted by July 1, 1969 and a final report by July 1, 1970; authorized the Commission or a subcommittee to hold hearings and to administer oaths and affirmations; directed executive branch departments, agencies, and instrumentalities to furnish information requested by the Commission; empowered the chairman, without regard to the provisions of Title 5, Government Organization and Employees, governing appointments in the competitive service and relating to classification and General Schedule pay rates, to appoint and pay personnel as he deemed necessary and to procure temporary services, as is authorized by section 3109 of title 5, at rates up to $50 a day for individuals; provided that members appointed from the executive or legislative branch serve without compensation in addition to that received in their regular employment but be reimbursed for travel, subsistence, and necessary expenses incurred while performing duties for the Commission and that members other than those appointed from the executive or legislative branches be paid $75 a day plus travel, subsistence, and other necessary expenses while acting as members of the Commission; and directed that the Commission cease to exist 30 days after its final report.

§ 1701u. Employment opportunities for lower income persons in connection with assisted projects

In the administration by the Secretary of Housing and Urban Development of programs providing direct financial assistance, including community development block grants under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.], in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, the Secretary shall—

(1) require, in consultation with the Secretary of Labor, that to the greatest extent feasible opportunities for training and employment arising in connection with the planning and carrying out of any project assisted under any such program be given to lower income persons residing in the area of such project; and

(2) require, in consultation with the Administrator of the Small Business Administration, that to the greatest extent feasible contracts for work to be performed in connection with any such project be awarded to business concerns, including but not limited to individuals or firms doing business in the field of planning, consulting, design, architecture, building construction, rehabilitation, maintenance or repair, which are located in or owned in substantial part by persons residing in the area of such project.

(Pub. L. 90-448, § 3, Aug. 1, 1968, 82 Stat. 476; Pub. L. 91-152, title IV, § 404, Dec. 24, 1969, 83 Stat. 395; Pub. L. 93-383, title I, § 118, Aug. 22, 1974, 88 Stat. 653.)

REFERENCES IN TEXT

Title I of the Housing and Community Development Act of 1974, referred to in text, is title I of Pub. L. 93-383, §§ 101 to 118, Aug. 22, 1974, 88 Stat. 633 to 653, which is classified principally to chapter 69 (§ 5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of title I to the Code, see Tables volume.

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1968, and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1974—Pub. L. 93-383 added reference to community development block grants under title I of the Housing and Community Development Act of 1974.

1969—Pub. L. 91-152 substituted provisions making applicable programs providing direct financial assistance in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, for provisions making applicable programs authorized by sections 1715*l*(d)(3), 1715z, and 1715z-1 of this title, the low-rent public housing program under the United States Housing Act of 1937, and the rent supplement program under section 101 of the Housing and Urban Development Act of 1965.

§ 1701v. Congressional findings and declaration for improved architectural design in Government housing programs

The Congress finds that Federal aids to housing have not contributed fully to improvement in architectural standards. This objective has been contemplated in Federal housing legislation since the establishment of mortgage insurance through the Federal Housing Administration.

The Congress commends the Department of Housing and Urban Development for its recent efforts to improve architectural standards through competitive design awards and in other ways but at the same time recognizes that this important objective requires high priority if Federal aid is to make its full communitywide contribution toward improving our urban environment.

The Congress further finds that even within the necessary budget limitations on housing for low and moderate income families architectural design could be improved not only to make the housing more attractive, but to make it better suited to the needs of occupants.

The Congress declares that in the administration of housing programs which assist in the provision of housing for low and moderate income families, emphasis should be given to encouraging good design as an essential component of such housing and to developing housing which will be of such quality as to reflect its important relationship to the architectural standards of the neighborhood and community in which it is situated, consistent with prudent budgeting.

(Pub. L. 90-448, § 4, Aug. 1, 1968, 82 Stat. 477.)

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1968, and not as a part of the National Housing Act which comprises this chapter.

§ 1701w. Budget, debt management, and related counseling services for mortgagors; authorization of appropriations

The Secretary of Housing and Urban Development is authorized to provide, or contract with public or private organizations to provide, such budget, debt management, and related counseling services to mortgagors whose mortgages are insured under section 1715z(i) or (j)(4) of this title as he determines to be necessary to assist such mortgagors in meeting the responsibilities of homeownership. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 90-448, title I, § 101(e), Aug. 1, 1968, 82 Stat. 484.)

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1968, and not as a part of the National Housing Act which comprises this chapter.

§ 1701x. Assistance with respect to housing for low- and moderate-income families

(a) Authorization to provide information, advice, and technical assistance; scope of assistance; authorization of appropriations

(1) The Secretary is authorized to provide, or contract with public or private organizations to provide, information, advice, and technical assistance, including but not limited to—

(i) the assembly, correlation, publication, and dissemination of information with respect to the construction, rehabilitation, and operation of low- and moderate-income housing;

(ii) the provision of advice and technical assistance to public bodies or to nonprofit or cooperative organizations with respect to the construction, rehabilitation, and operation of low- and moderate-income housing, including assistance with respect to self-help and mutual self-help programs;

(iii) counseling and advice to tenants and homeowners with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership; and

(iv) the provision of technical assistance to communities, particularly smaller communities, to assist such communities in planning, developing, and administering Community Development Programs pursuant to title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

(2) The Secretary shall provide the services described in clause (iii) of paragraph (1) for homeowners assisted under section 1715z of this title. For purposes of this paragraph and clause (iii) of paragraph (1), the Secretary may provide the services described in such clause directly or may enter into contracts with, make grants to, and provide other types of assistance to private or public organizations with special competence and knowledge in counseling low- and moderate-income families to provide such services.

(3) There is authorized to be appropriated for the purposes of this subsection, without fiscal year limitation, such sums as may be necessary. Any amounts so appropriated shall remain available until expended.

(b) Loans to nonprofit organizations or public housing agencies; purpose and terms; repayment; authorization of appropriations; deposit of appropriations in Low and Moderate Income Sponsor Fund

(1) The Secretary is authorized to make loans to nonprofit organizations or public housing agencies for the necessary expenses, prior to construction, in planning, and obtaining financing for, the rehabilitation or construction of housing for low or moderate income families under section 1715z of this title or any other federally assisted program. Such loans shall be made without interest and shall not exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing prior to the availability of financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering and architectual [1] fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. The Secretary shall require repayment of loans made under this subsection, under such terms and conditions as he may require, upon completion of the project or sooner, and may cancel any part or all of a loan if he determines that it cannot be recovered from the proceeds of any permanent loan made to finance the rehabilitation or construction of the housing.

(2) The Secretary shall determine prior to the making of any loan that the nonprofit organization or public housing agency meets such requirements with respect to financial responsibility and stability as he may prescribe.

(3) There are authorized to be appropriated for the purposes of this subsection not to exceed $7,500,000 for the fiscal year ending June 30, 1969, and not to exceed $10,000,000 for the fiscal year ending June 30, 1970. Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year under this paragraph but not appropriated may be appropriated for any succeeding fiscal year.

(4) All funds appropriated for the purposes of this subsection shall be deposited in a fund which shall be known as the Low and Moderate Income Sponsor Fund, and which shall be available without fiscal year limitation and be administered by the Secretary as a revolving fund for carrying out the purposes of this subsection. Sums received in repayment of loans made under this subsection shall be deposited in such fund.

(Pub. L. 90-448, title I, § 106, Aug. 1, 1968, 82 Stat. 490; Pub. L. 91-609, title IX, § 903(a), (b), Dec. 31, 1970, 84 Stat. 1808; Pub. L. 93-383, title VIII, § 811, Aug. 22, 1974, 88 Stat. 735.)

[1] So in original. Probably should be "architectural".

REFERENCES IN TEXT

Title I of the Housing and Community Development Act of 1974, referred to in subsec. (a)(1)(iv), is title I of Pub. L. 93-383, §§ 101 to 118, Aug. 22, 1974, 88 Stat. 633 to 653, which is classified principally to chapter 69 (§ 5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of title I to the Code, see Tables volume.

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1968, and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-383, § 811(b)(1), (c), in cl. (iii) substituted provisions authorizing counseling and advice to tenants and homeowners with respect to property maintenance, etc., for provisions authorizing counseling on household management, self-help, etc., for families receiving assistance under this chapter or the United States Housing Act of 1937, and added cl. (iv).

Subsec. (a)(2). Pub. L. 93-383, § 811(b)(2), added subsec. (a)(2). Former subsec. (a)(2) redesignated (a)(3).

Subsec. (a)(3). Pub. L. 93-383, § 811(b)(2), (d), redesignated former subsec. (a)(2) as (a)(3) and, as so redesignated, substituted "such sums as may be necessary" for "not to exceed $5,000,000".

Subsec. (b)(1). Pub. L. 93-383, § 811(e), added reference to public housing agencies.

Subsec. (b)(2). Pub. L. 93-383, § 811(f), added reference to public housing agencies.

1970—Subsec. (a). Pub. L. 91-609, § 903(a), designated existing provisions as par. (1), inserted provision respecting specific authorities without limitation to such authorities, redesignated former par. (1) as cl. (i), deleted introductory text relating to assistance with respect to construction, rehabilitation, and operation by nonprofit organizations of housing for low or moder-

ate income families now incorporated in cl. (i), redesignated former par. (2) as cl. (ii), inserting therein provision for assistance to public bodies or to nonprofit or cooperative organizations, including assistance with respect to self-help and mutual self-help programs, and added cl. (iii) and par. (2).

Subsec. (b)(1). Pub. L. 91-609, § 903(b), substituted in first sentence "section 1715z of this title or any other federally assisted program" for "any federally assisted program".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 2985b.

§ 1701y. National Homeownership Foundation

(a) Creation; purpose; articles of incorporation and charter; reservation of right to alter or amend charter; term; principal office; administration as charitable and educational foundation; compensation of officers and employees; contract authority; donations and grants; payment of principal and interest on borrowings

(1) There is hereby created a body corporate to be known as the "National Homeownership Foundation" (hereinafter referred to as the "Foundation") to carry out a continuing program of encouraging private and public organizations at the national, community, and neighborhood levels to provide increased homeownership and housing opportunities in urban and rural areas for lower income families through such means as—

(A) encouraging the investment in, and sponsoring of, housing for lower income families;

(B) encouraging the establishment of programs of assistance and counseling to lower income families to enable them better to achieve and afford adequate housing;

(C) providing a broad range of technical assistance through publications and advisory services to public and private organizations which are carrying out, or are desirous of carrying out, programs to expand homeownership and housing opportunities for lower income families; and

(D) providing grants and loans to public and private organizations carrying out homeownership and housing opportunity programs for lower income families to help cover some of the expenses of such programs.

(2) The Foundation shall be deemed to be a corporation without members organized and established under the provisions of the District of Columbia Nonprofit Corporation Act [D.C. Code, § 29-1001 et seq.], with all the rights, powers, and responsibilities thereof except as limited by this section and any amendments thereto. This section shall constitute the articles of incorporation and charter of the Foundation, which shall not be an agency or instrumentality of the United States Government. The Congress expressly reserves the exclusive right to alter or amend this charter. The Foundation shall have succession until dissolved by Act of Congress. The Foundation shall maintain its principal office in the District of Columbia.

(3) No part of the net earnings of the Foundation shall inure to the benefit of any private person, and no substantial part of its activities shall be devoted to attempting to influence legislation. The Foundation shall not participate or intervene in any political campaign on behalf of any candidate for public office. The Foundation shall be operated and administered at all times as a charitable and educational foundation.

(4) No employee or officer of the Foundation shall receive compensation in excess of that received by or hereafter prescribed by law for heads of executive departments.

(5) The Foundation shall make maximum use of existing public and private agencies and programs, and in carrying out its functions the Foundation is authorized to contract with individuals, private corporations, organizations, and associations, and with agencies of the Federal, State, and local governments.

(6) The Foundation is authorized to receive donations and grants from individuals and from public and private organizations, foundations, and agencies.

(7) The Foundation may use only donated funds, or funds derived from payment of interest on loans made by it, for the principal and interest payments on any borrowings.

(b) Board of Directors; appointment of members; Chairman; terms of office; reappointment; compensation and travel expenses; Executive Director and other officers; vacancies; by-laws

(1) The Foundation shall have a Board of Directors consisting of eighteen members, fifteen of whom shall be appointed by the President of the United States, with the advice and consent of the Senate. The other three members shall be, ex officio, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Office of Economic Opportunity. The President shall appoint one of the fifteen appointed members to serve as Chairman of the Board during his term of office as a member.

(2) Within thirty days after August 1, 1968, the President shall appoint the fifteen appointed members of the Board. Not more than five of such members shall, at the time of their appointment, be serving full time as officers or employees of the Federal Government, or as officers or employees of any State or local government. Each appointed member of the Board shall hold office for a term of three years, except that (A) any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of the members first taking office shall expire, as designated by the President at the time of appointment, five at the end of the first year, five at the end of the second year, and five at the end of the third year after the date of appointment. Members of the Board, however appointed, shall be eligible for reappointment, but at no time shall there be more than five members of the Board who at the time of their appointment or reappointment were full-time officers or employees of the Federal Government or of any State or local government.

(3) Appointed members of the Board who are not employees of the Federal Government, while attending meetings or conferences of the Board or otherwise serving on business of the Board, shall be entitled to receive compensation at rates fixed by the President, but not exceed-

ing $100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(4) The Board shall appoint an Executive Director of the Foundation. The Executive Director shall be the chief executive officer of the Foundation and shall serve at the pleasure of the Board, and all other executive officers and employees of the Board shall be responsible to him. The Board shall also cause to be appointed a secretary, a treasurer, and such other officers as may be necessary to conduct properly the business of the Foundation, and shall provide for filling vacancies in such offices.

(5) The Board shall adopt bylaws for the Foundation which shall be made available for public inspection upon request.

(c) Functions; programs to expand homeownership and housing opportunities for lower income families; fees for assistance or services

(1) The Foundation shall assist public and private organizations, at their request, in initiating, developing, and conducting programs to expand homeownership and housing opportunities for lower income families. To provide such assistance and to carry out the purposes of this section, the Foundation is authorized to—

(A) carry out a continuing program of encouraging private and public organizations at the national, community, and neighborhood levels in the establishment of such programs;

(B) assist in the formation of organizations the purpose of which is the development and carrying out of such programs, including the establishment of local development funds for financing housing for lower income families through the pooling of moneys from private sources;

(C) identify and arrange for the technical and managerial assistance and personnel needed for the successful operation of such programs by public and private organizations;

(D) assist public and private organizations in obtaining the mortgage financing, insurance, and other requirements or aids necessary for conducting programs of housing construction, rehabilitation, or improvement for lower income families;

(E) arrange for, or provide on a limited basis, training for persons in the skills needed in administering programs of homeownership and housing opportunity for lower income families;

(F) encourage research and innovation, and collect and make available such information as may be desirable to further the purposes of this section, including but not limited to such activities as the sponsoring of seminars, conferences, and meetings and the establishment of a continuing information program to acquaint lower income families with the means they can use to improve the quality of their housing and the homeownership and housing opportunities available to them;

(G) assist private and public organizations in establishing, in connection with their homeownership and housing opportunity programs for lower income families, counseling and similar activities designed to advise lower income families of the means available to better themselves economically through job training and manpower development programs; and

(H) perform other similar services in order to further the purposes of this section.

(2) The Foundation may, if it deems it appropriate, charge a reasonable fee for any assistance or service provided under this subsection.

(d) Grants and loans to public or private organizations; eligibility; encouragement of cooperation between organizations and neighborhoods and communities

(1) In order to assist public and private organizations which are carrying out homeownership and housing opportunity programs for lower income families to fill unmet needs, initiate exceptional programs, and experiment with new approaches and programs, the Foundation is authorized, subject to such terms and conditions as it may prescribe, to make grants and loans to such organizations to help defray the following expenses:

(A) organizational and administrative expenses incurred in commencing the operation of a program, or in expanding an existing program, to the extent that the activities are related to providing homeownership and housing opportunities for lower income families;

(B) necessary preconstruction costs incurred for architectural assistance, land options, application fees, and similar items; and

(C) the cost of carrying out programs providing counseling or similar services to lower income families for whom housing is being provided, in order to enable those families better to achieve and afford adequate housing, in such matters as home management, budget management, and home maintenance.

(2) In order to be eligible for a grant or loan under this subsection, the organization seeking such assistance shall demonstrate to the satisfaction of the Foundation that the funds requested are not otherwise available from Federal sources: *Provided,* That a grant or loan under this subsection may be provided to help cover that portion of the cost of an eligible activity not covered by Federal funds.

(3) The Foundation shall encourage cooperation between public and private organizations carrying out programs of homeownership and housing opportunity for lower income families and the neighborhoods and communities affected by such programs. To help assure such cooperation and in order to coordinate, to the maximum extent feasible, any construction or rehabilitation activities with the development goals of the neighborhood or community affected, no application for a loan or grant under this subsection shall be considered unless such application has been submitted to the governing body of the community affected, or to such other entity of local government as may be designated by the governing body, for such recommendations as the local governing body or its designee may desire to make. Any recommendations so made shall be given careful consideration by the Foundation before taking final action on any such application. If, upon the expiration of thirty days after any such applica-

tion has been submitted to such governing body or its designee, such body or designee fails to provide such recommendations, the application may be considered without the benefit of such recommendations.

(e) Coordination of activities and consultation with Department of Housing and Urban Development and other Federal departments and agencies

The Foundation shall coordinate its activities and consult with the Department of Housing and Urban Development and other Federal departments and agencies engaged in providing homeownership and housing opportunities for lower income families.

(f) Annual report to the President and the Congress; contents

(1) Not later than one hundred and twenty days after the close of each fiscal year, the Foundation shall prepare and submit to the President and to the Congress a full report of its activities during such year. Such report shall include an account of the Foundation's experiences with the efforts of private and public organizations to expand homeownership and housing opportunities for lower income families, together with such recommendations as it deems appropriate.

(2) Whenever in its judgement the general unavailability of mortgage funds is sufficiently serious to deter the Foundation from carrying out its objective of expanding homeownership and housing opportunities for lower income families, the Foundation shall, in its annual report or in a separate report to the President and the Congress, state its findings and make such recommendations for alternate means of financing housing for such families as it deems appropriate.

(g) Audit of financial transaction; access to records; report of audit; contents of report

(1) The financial transactions of the Foundation shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Foundation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. The audit shall cover the fiscal year corresponding to that of the United States Government. Such audit shall be made at least once in every three years.

(2) A report of each such audit shall be made by the Comptroller General to the Congress not later than six and one-half months following the close of the last year covered by such audit. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital, and surplus or deficit; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the Congress informed of the operations and financial condition of the Foundation, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking, observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President and to the Foundation at the time submitted to the Congress.

(h) Deposit of funds of Foundation

Funds of the Foundation shall be deposited, to the extent practicable, in accounts with financial institutions which are actively engaged in making loans or are otherwise carrying on activities in furtherance of homeownership and housing opportunities for lower income families.

(i) Authorization of appropriations

There is authorized to be appropriated to the Foundation not to exceed $10,000,000 to carry out the purposes of this section. Appropriations made hereunder shall remain available until expended.

(Pub. L. 90-448, title I, § 107, Aug. 1, 1968, 82 Stat. 491; Pub. L. 93-604, title VI, § 604, Jan. 2, 1975, 88 Stat. 1963.)

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act [D.C. Code, § 29-1001 et seq.], referred to in subsec. (a)(2), is act Aug. 6, 1962, Pub. L. 87-569, 76 Stat. 265, as amended.

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1968 and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1975—Subsec. (g)(1). Pub. L. 93-604, § 604(1), added provision that the audit under this subsection shall be made at least once in every three years.

Subsec. (g)(2). Pub. L. 93-604, § 604(2), substituted "six and one-half months following the close of the last year covered by such audit" for "January 15 following the close of the fiscal year for which the audit was made".

OFFICE OF ECONOMIC OPPORTUNITY

Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] to create the Community Services Administration as the successor authority to the Office of Economic Opportunity. For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of Title 42, The Public Health and Welfare.

§ 1701z. New technologies in the development of housing for lower income families

(a) Institution of program; assistance to mobile home buyers

In order to encourage the use of new housing technologies in providing decent, safe, and sanitary housing for lower income families; to encourage large-scale experimentation in the use

of such technologies; to provide a basis for comparison of such technologies with existing housing technologies in providing such housing; and to evaluate the effect of local housing codes and zoning regulations on the large-scale use of new housing technologies in the provision of such housing, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall institute a program under which qualified organizations, public and private, will submit plans for the development of housing for lower income families, using new and advanced technologies, on Federal land which has been made available by the Secretary for the purposes of this section, or on other land where (1) local building regulations permit the construction of experimental housing, or (2) State or local law permits variances from building regulations in the construction of experimental housing for the purpose of testing and developing new building technologies.

(b) Approval of plans utilizing new housing technologies; considerations

The Secretary shall approve not more than five plans utilizing new housing technologies which are submitted to him pursuant to the program referred to in subsection (a) of this section and which he determines are most promising in furtherance of the purposes of this section. In making such determination the Secretary shall consider—

(1) the potential of the technology employed for producing housing for lower income families on a large scale at a moderate cost;

(2) the extent to which the plan envisages environmental quality;

(3) the possibility of mass production of the technology; and

(4) the financial soundness of the organization submitting the plan, and the ability of such organization, alone or in combination with other organizations, to produce at least one thousand dwelling units a year utilizing the technology proposed.

(c) Number of dwelling units to be constructed for each type of technology; evaluation of projects

In approving projects for mortgage insurance under section 1715x(a)(2) of this title, the Secretary shall seek to achieve the construction of at least one thousand dwelling units a year over a five-year period for each of the various types of technologies proposed in approved plans under subsection (b) of this section. The Secretary shall evaluate each project with respect to which assistance is extended pursuant to this section with a view to determining (1) the detailed cost breakdown per dwelling unit, (2) the environmental quality achieved in each unit, and (3) the effect which local housing codes and zoning regulations have, or would have if applicable, on the cost per dwelling unit.

(d) Transfer of surplus property

Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], any land which is excess property within the meaning of such Act and which is determined by the Secretary to be suitable in furtherance of the purposes of this section may be transferred to the Secretary upon his request.

(e) Report of findings; legislative recommendations

The Secretary shall, at the earliest practicable date, report his findings with respect to projects assisted pursuant to this section (including evaluations of each such project in accordance with subsection (c) of this section), together with such recommendations for additional legislation as he determines to be necessary or desirable to expand the available supply of decent, safe, and sanitary housing for lower income families through the use of technologies the efficacy of which has been demonstrated under this section.

(Pub. L. 90-448, title I, § 108(a)-(e), Aug. 1, 1968, 82 Stat. 495, 496.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (d), is act June 30, 1949, ch. 288, 63 Stat. 377. The surplus property provisions of that act are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40, and Tables volume.

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1968, and not as a part of the National Housing Act which comprises this chapter.

§ 1701z-1. Research and demonstrations; authorization of appropriations; continuing availability of funds

The Secretary of Housing and Urban Development is authorized and directed to undertake such programs of research, studies, testing, and demonstration relating to the mission and programs of the Department as he determines to be necessary and appropriate. There are authorized to be appropriated for activities under this title [12 U.S.C. 1701z-1 et seq.] not to exceed $65,000,000 for the fiscal year 1977. All funds so appropriated shall remain available until expended unless specifically limited.

(Pub. L. 91-609, title V, § 501, Dec. 31, 1970, 84 Stat. 1784; Pub. L. 94-375, § 23(a), Aug. 3, 1976, 90 Stat. 1078.)

REFERENCES IN TEXT

This title, referred to in text, means Title V of the Housing and Urban Development Act of 1970, which is classified to section 1701z-1 et seq. of this title.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1976—Pub. L. 94-375 substituted provision authorizing appropriations for fiscal year 1977 in an amount not exceeding $65,000,000 for provision which authorized sums to be appropriated as may have been necessary.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701z-2, 1701z-4 to 1701z-7 of this title.

§ 1701z-2. Advanced technologies, methods, and materials for housing construction, rehabilitation, and maintenance

(a) General acceptance; costs, reduction; health and safety restrictions on expanded housing production

The Secretary shall require, to the greatest extent feasible, the employment of new and improved technologies, methods, and materials in housing construction, rehabilitation, and maintenance under programs administered by him with a view to reducing costs, and shall encourage and promote the acceptance and application of such advanced technology, methods, and materials by all segments of the housing industry, communities, industries engaged in urban development activities, and the general public. To the extent feasible, in connection with the construction, major rehabilitation, or maintenance of any housing assisted under section 1701z-1 of this title, the Secretary shall assure that there is no restraint by contract, building code, zoning ordinance, or practice against the employment of new or improved technologies, techniques, materials, and methods or of preassembled products which may reduce the cost or improve the quality of such construction, rehabilitation, and maintenance, and therefore stimulate expanded production of housing, except where such restraint is necessary to insure safe and healthful working and living conditions.

(b) Experimental construction under approved housing plans on Federal or other lands with view toward ultimate mass housing production; use of section 1701z-1 funds and authority

To encourage large-scale experimentation in the use of new technologies, methods, and materials, with a view toward the ultimate mass production of housing and related facilities, the Secretary shall wherever feasible conduct programs under section 1701z-1 of this title in which qualified organizations, public and private, will submit plans for development and production of housing and related facilities using such new advances on Federal land which has been made available or acquired by the Secretary for the purpose of this subsection or on other land where (1) local building regulations permit such experimental construction, or (2) necessary variances from building regulations can be granted. The Secretary may utilize the funds and authority available to him under the provisions of section 1701z-1 of this title to assist in the implementation of plans which he approves.

(c) Acquisition, use, and disposal of property; transfer of excess property

Notwithstanding any other provision of law, the Secretary is authorized, in connection with projects under this title [12 U.S.C. 1701z-1 et seq.], to acquire, use and dispose of any land and other property required for the project as he deems necessary. Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], any land which is excess property within the meaning of such Act and which is determined by the Secretary to be suitable in furtherance of the purposes of subsection (b) of this section may be transferred to the Secretary upon his request.

(d) Technical assistance; reports; general dissemination and form of reports, data, and information

In order to effectively carry out his activities under section 1701z-1 of this title, the Secretary is authorized to provide such advice and technical assistance as may be required and to pay for the cost of writing and publishing reports on activities and undertakings financed under section 1701z-1 of this title, as well as reports on similar activities and undertakings, not so financed, which are of significant value in furthering the purposes of that section. He may disseminate (without regard to the provisions of section 3204 of title 39 or section 4154 of such title with respect to any period before the effective date of such section 3204 as provided in section 15(a) of the Postal Reorganization Act) any reports, data, or information acquired or held under this title [12 U.S.C. 1701z-1 et seq.], including related data and information otherwise available to the Secretary through the operation of the programs and activities of the Department of Housing and Urban Development, in such form as he determines to be most useful to departments, establishments, and agencies of Federal, State, and local governments, to industry, and to the general public.

(e) Contracts or grants; authority; advance and progress payments; work limitation

The Secretary is authorized to carry out the functions authorized in section 1701z-1 of this title either directly or, without regard to section 5 of title 41, by contract or by grant. Advance and progress payment may be made under such contracts or grants without regard to the provisions of section 529 of title 31 and such contracts or grants may be made for work to continue for not more than four years from the date thereof.

(f) Utilization of facilities of other agencies; working agreements, cooperative agreements, contract authority, receipt of funds, and exercise of section 1701c(b) powers

In carrying out activities under section 1701z-1 of this title, the Secretary shall utilize to the fullest extent feasible the available facilities of other Federal departments and agencies, and shall consult with, and make recommendations to, such departments and agencies. The Secretary may enter into working agreements with such departments and agencies and contract or make grants on their behalf or have such departments and agencies contract or make grants on his behalf and such departments and agencies are hereby authorized to execute such contracts and grants. The Secretary is authorized to make or accept reimbursement for the cost of such activities. The Secretary is further authorized to undertake activities under this title [12 U.S.C. 1701z-1 et seq.] under cooperative agreements with industry and labor, agencies of State or local governments, educational institutions, and other organizations. He may enter into contracts with and receive funds from such agencies, institutions, and organizations, and may exercise any of the other powers vested in him by section 1701c(b) of this title.

(g) Information and data; restriction on use or identification

The Secretary is authorized to request and receive such information or data as he deems appropriate from private individuals and organizations, and from public agencies. Any such information or data shall be used only for the purposes for which it is supplied, and no publication shall be made by the Secretary whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

(Pub. L. 91-609, title V, § 502, Dec. 31, 1970, 84 Stat. 1784; Pub. L. 94-375, § 23(c), Aug. 3, 1976, 90 Stat. 1078.)

REFERENCES IN TEXT

This title, referred to in subsecs. (c), (d), and (f), means Title V of the Housing and Urban Development Act of 1970, which is classified to section 1701z-1 et seq. of this title.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (c), is act June 30, 1949, ch. 288, 63 Stat. 377. Provisions of that Act relating to excess property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of title 40, and Tables volume.

For effective date of section 3204 of title 39 as provided in section 15(a) of the Postal Reorganization Act, referred to in subsec. (d), see notes preceding section 101 and under section 3204 of Title 39, Postal Service.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-375 inserted "and such departments and agencies are hereby authorized to execute such contracts and grants." following "make grants on his behalf".

§ 1701z-3. Experimental housing allowance payment program

(a) Purpose of payments

The Secretary is authorized to undertake on an experimental basis programs to demonstrate the feasibility of providing housing allowance payments to assist families in meeting rental or homeownership expenses.

(b) Termination date of payments; termination date for contracts; contracts for performance of administrative functions

No housing allowance payments shall be made after July 1, 1985. After January 1, 1975, the Secretary shall not enter into contracts under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] to carry out the purposes of this section. The Secretary may contract with public or private agencies for the performance of administrative functions in connection with the programs authorized by this section.

(c) Report to Congress

The Secretary shall report to the Congress on his findings pursuant to this section not later than eighteen months after August 22, 1974.

(Pub. L. 91-609, title V, § 504, Dec. 31, 1970, 84 Stat. 1786; Pub. L. 93-383, title VIII, § 804, Aug. 22, 1974, 88 Stat. 725; Pub. L. 94-375, § 23(b), Aug. 3, 1976, 90 Stat. 1078.)

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (b), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, and is classified to chapter 8 (§ 1437 et seq.) of Title 42, The Public Health and Welfare.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-375 struck out provisions which authorized the Secretary to make or contract to make housing allowance payments, authorized sums to be appropriated as necessary, including sums for contract payments and administrative costs, and limited the aggregate amount of contracts for making housing allowance payments.

1974—Subsec. (a). Pub. L. 93-383 substituted provisions authorizing the Secretary to undertake programs on an experimental basis of housing allowance payments to assist families in meeting rental or homeownership expenses, for provisions authorizing the Secretary in carrying out activities under section 1701z-1 of this title to undertake programs on an experimental basis of housing allowances to assist families of low income to obtain rental housing of their choice in existing units.

Subsec. (b). Pub. L. 93-383 substituted provisions relating to the authority of the Secretary to make or contract to make payments to or on behalf of participating families, authorizing appropriations, and setting forth limits on the contracting power of the Secretary, for provisions setting forth limitations on the amount of family allowances and conditioning payment of such allowances.

Subsec. (c). Pub. L. 93-383 substituted provisions requiring the Secretary to report to Congress not later than 18 months after Aug. 22, 1974, for provisions setting forth the contracting authority of the Secretary for services.

Subsec. (d). Pub. L. 93-383 struck out subsec. (d) setting forth limits on aggregate family allowances and authorizing appropriations to make payments.

Subsec. (e). Pub. L. 93-383 struck out subsec. (e) requiring a report to Congress by the Secretary as soon as practicable in calendar years 1972 and 1973.

Subsec. (f). Pub. L. 93-383 struck out subsec. (f) which defined the terms "families of low income" and "existing standard housing".

Subsec. (g). Pub. L. 93-383 struck out subsec. (g) prohibiting payments after June 30, 1973.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701z-2 of this title.

§ 1701z-4. Abandoned properties demonstration project

(a) Grants for arrest of incipient abandonment and revitalization of blighted areas

In carrying out activities under section 1701z-1 of this title, the Secretary may undertake programs to demonstrate the most feasible means of providing assistance to localities in which a substantial number of structures are abandoned or are threatened with abandonment for the purpose of arresting the process of housing abandonment in its incipiency or in restoring viability to blighted areas in which

abandonment is pervasive. For this purpose, the Secretary is authorized to make grants, subject to the limitations of this section, to assist local public bodies in planning and implementing demonstration projects for prompt and effective action in alleviating and preventing such abandonment in designated demonstration areas.

(b) Preferred projects; scope of projects

In administering this section, the Secretary shall give preference to those demonstration projects which in his judgment can reasonably be expected to arrest the process of abandonment in the demonstration area within a period of two years and which provide for innovative approaches to combating the problem of housing abandonment. Such projects may include, but shall not be limited to (1) acquisition by negotiated purchase, lease, receivership, tax lien proceedings, or other means authorized by law and satisfactory to the Secretary, of real property within the demonstration area or areas which is abandoned, deteriorated, or in violation of applicable code standards; (2) the repair of streets, sidewalks, parks, playgrounds, publicly owned utilities, public buildings to meet needs consistent with the revitalization and continued use of the area; (3) the demolition of structures determined to be structurally unsound or unfit for human habitation or which contribute adversely to the physical or social environment of the locality involved; (4) the establishment of recreational or community facilities including public playgrounds; (5) the improvement of garbage and trash collection, street cleaning and other essential services necessary to the revitalization and maintenance of the area; (6) the rehabilitation of privately and publicly owned real property by the locality; and (7) the establishment and operation of locally controlled, nonprofit housing management corporations and municipal repair programs.

(c) Purchase or lease of project real estate at fair market value for new or rehabilitated housing use; conditions

Subject to such conditions as the Secretary may prescribe, real property held as part of a project assisted under this section may be made available to (1) a limited dividend corporation, nonprofit corporation, or association, cooperative or public body or agency, or other approved purchaser or lessee, or (2) a purchaser who would be eligible for a mortgage insured under section 1715*l*(d)(3) or (d)(4), section 1715*l*(h)(1), section 1715z(i) or (j)(1), or section 1715z-1 of this title, for purchase or lease at fair market value for use by such purchaser or lessee, as, or in the provision of, new or rehabilitated housing for occupancy by families or individuals of low or moderate income.

(d) Amount of grants; authorization of appropriations; continuing availability of funds; locality limitation

Grants under this section shall be in amounts which do not exceed 90 per centum of the net project cost as determined by the Secretary. There are authorized to be appropriated for demonstration grants under this section not to exceed $20,000,000 for the fiscal year ending June 30, 1971. Any amounts appropriated shall remain available until expended and any amount authorized but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972. Not more than one-third of the aggregate amount of grants made in any fiscal year under this section shall be made with respect to projects undertaken by one locality.

(e) Projects as part of urban renewal projects for purpose of application of urban renewal provisions

The provisions of sections 1456, 1465, and 1466 of title 42, and section 1452b of title 42, may apply to projects assisted under this Act as if such projects were being carried out in urban renewal areas as part of urban renewal projects within the meaning of section 1460 of title 42.

(f) Reports to Congress

The Secretary shall report annually to the Congress with respect to the status of demonstration projects funded by him and shall make such recommendations to the Congress as he deems necessary to further the purposes of this section.

(Pub. L. 91-609, title V, § 505, Dec. 31, 1970, 84 Stat. 1787.)

REFERENCES IN TEXT

Section 1465 of title 42, referred to in subsec. (e), was repealed by Pub. L. 91-646, title II, § 220(a)(5), Jan. 2, 1971, 84 Stat. 1903 and is now covered by section 4601 et seq. of Title 42, The Public Health and Welfare.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701z-2 of this title.

§ 1701z-5. Demonstrations of heating or cooling residential housing utilizing solar energy

(a) Consultation by Secretary with National Science Foundation; scope of demonstrations; powers of Secretary

In carrying out activities under section 1701z-1 of this title, the Secretary may, after consultation with the National Science Foundation, undertake demonstrations to determine the economic and technical feasibility of utilizing solar energy for heating or cooling residential housing (including demonstrations of new housing design or structure involving the use of solar energy). Demonstrations carried out under this section should involve both single family and multifamily housing located in areas having distinguishable climatic characteristics in urban as well as rural environments. To carry out the purpose of this section the Secretary is authorized—

(1) to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, design, development, and operation of such housing;

(2) to utilize the contract, loan, or mortgage insurance authority of any federally assisted

housing program in the actual planning, development, and occupancy of such housing; and

(3) to set aside any development, construction, design, or occupancy requirements for the purpose of any demonstration under this section if he determines that such requirements inhibit such demonstration.

(b) Evaluation by Secretary

The Secretary shall include in any demonstration under this section an evaluation of the demonstration to cover the full experience involved in all stages of the demonstration.

(c) Report to Congress; time for and contents of report

The Secretary shall transmit to the Congress not later than 6 months following the close of any year in which he carries out a demonstration under this section a full report on such demonstration. Such report may include an evaluation of the economic and technological feasibility of the widespread application of solar energy to residential housing.

(Pub. L. 91–609, title V, § 506, as added Pub. L. 93–383, title VIII, § 814, Aug. 22, 1974, 88 Stat. 738.)

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

§ 1701z–6. Special housing need research and demonstration authority

(a) Special demonstrations of housing design, structure, facilities, and amenities to meet needs of elderly, handicapped, etc.; contracts, grants, and assistance by Secretary

In carrying out activities under section 1701z–1 of this title, the Secretary may undertake special demonstrations to determine the housing design, the housing structure, and the housing-related facilities, and amenities most effective or appropriate to meet the needs of groups with special housing needs including the elderly, the handicapped, the displaced, single individuals, broken families, and large households. For this purpose, the Secretary is authorized to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, development, design, and management of such housing.

(b) Areas of preferential attention

In carrying out his functions under this section, the Secretary shall give preferential attention to demonstrations which in his judgment involve areas of housing user needs most neglected in past and current research and demonstration efforts.

(c) Utilization of contract and loan authority of federally assisted housing programs; setting aside of development, etc., requirements during testing

The Secretary is authorized to undertake demonstrations involving the actual planning, development, and occupancy of housing utilizing the contract and loan authority of any federally assisted housing program. He is also authorized to set aside any development, construction, design, and occupancy requirements, for the purposes of these demonstrations, if in his judgment they inhibit the testing of housing designed to meet the special housing needs.

(d) Evaluation of demonstration

In carrying out this section, the Secretary shall include, as part of any demonstration, an evaluation of the demonstration to cover the full experience involved in planning, development, and occupancy.

(e) Limitation on amounts available for research

In addition to any other contract or loan authority which the Secretary may utilize under subsection (c) of this section, not more than $10,000,000 from amounts approved in appropriation Acts shall be available for research under this section.

(Pub. L. 91–609, title V, § 507, as added Pub. L. 93–383, title VIII, § 815, Aug. 22, 1974, 88 Stat. 738.)

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

§ 1701z–7. Studies to determine extent of need for counseling to mortgagors; report to Congress

(a) In carrying out activities under section 1701z–1 of this title, the Secretary is directed to undertake programs of studies and demonstrations within at least three standard metropolitan statistical areas to determine the extent of need for and cost effectiveness of providing prepurchase, default and delinquency counseling and related services to owners and purchasers of single-family dwellings insured or to be insured under the unsubsidized mortgage insurance programs of the National Housing Act [12 U.S.C. 1701 et seq.].

(b) Within one year from August 3, 1976, the Secretary shall submit an interim report to the Congress with respect to the progress made under such studies and demonstrations, including an estimate as to the date when a final report on the results of such demonstrations will be made available to the Congress.

(Pub. L. 91–609, title V, § 508, as added Pub. L. 94–375, § 26, Aug. 3, 1976, 90 Stat. 1078.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is classified to chapter 13 (§ 1701 et seq.) of this title.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

§ 1701z–8. Energy conservation and renewable-resource demonstration

(a) National demonstration program; purpose

The Secretary shall undertake a national demonstration program designed to test the feasibility and effectiveness of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and approved renew-

able-resource energy measures in existing dwelling units. The Secretary shall carry out such demonstration program with a view toward recommending a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

(b) Financial assistance to owners and tenants of dwelling units; authorization of Secretary

The Secretary is authorized to make financial assistance available pursuant to this section in the form of grants, low-interest-rate loans, interest subsidies, loan guarantees, and such other forms of assistance as the Secretary deems appropriate to carry out the purposes of this section. Assistance may be made available to both owners of dwelling units and tenants occupying such units.

(c) Duties of Secretary

In carrying out the demonstration program required by this section, the Secretary shall—

(1) provide assistance in a wide variety of geographic areas to reflect differences in climate, types of dwelling units, and income levels of recipients in order to provide a national profile for use in designing a program which is to be operational and effective nationwide;

(2) evaluate the appropriateness of various financial incentives for different income levels of owners and occupants of existing dwelling units;

(3) take into account and evaluate any other financial assistance which may be available for the installation or implementation of energy conservation and renewable-resource energy measures;

(4) make use of such State and local instrumentalities or other public or private entities as may be appropriate in carrying out the purposes of this section in coordination with the provisions of part C of title III of the Energy Policy and Conservation Act [42 U.S.C. 6321 et seq.];

(5) consider, with respect to various forms of assistance and procedures for their application, (A) the extent to which energy conservation measures and renewable-resource energy measures are encouraged which would otherwise not have been undertaken, (B) the minimum amount of Federal subsidy necessary to achieve the objectives of a national program, (C) the costs of administering the assistance, (D) the extent to which the assistance may be encumbered by delays, redtape, and uncertainty as to its availability with respect to any particular applicant, (E) the factors which may prevent the assistance from being available in certain areas or for certain classes of persons, and (F) the extent to which fraudulent practices can be prevented; and

(6) consult with the Administrator and the heads of such other Federal agencies as may be appropriate.

(d) Limitations on grants; modification and exceptions to limitation; eligibility

(1) The amount of any grant made pursuant to this section shall not exceed the lesser of—

(A) with respect to an approved energy conservation measure, (i) $400, or (ii) 20 per centum of the cost of installing or otherwise implementing such measure; and

(B) with respect to an approved renewable-resource energy measure, (i) $2,000, or (ii) 25 per centum of the cost of installing or otherwise implementing such measure.

The Secretary may, by rule, increase such percentages and amounts in the case of an applicant whose annual gross family income for the preceding taxable year is less than the median family income for the housing market area in which the dwelling unit which is to be modified by such measure is located, as determined by the Secretary. The Secretary may also modify the limitations specified in this paragraph if necessary in order to achieve the purposes of this section.

(2) No person shall be eligible for both financial assistance under this section and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.

(e) Conditions upon availability of financial assistance

The Secretary may condition the availability of financial assistance with respect to the installation and implementation of any renewable-resource energy measure on such measure's meeting performance standards for reliability and efficiency and such certification procedures as the Secretary may, in consultation with the Administrator and other appropriate Federal agencies, prescribe for the purpose of protecting consumers.

(f) Implementation of program

In carrying out the demonstration program required by this section, the Secretary is authorized to delegate responsibilities to, or to contract with, other Federal agencies or with such State or local instrumentalities or other public or private bodies as the Secretary may deem desirable. Such demonstration program shall be coordinated, to the extent practicable, with the State energy conservation plans as described in, and implemented pursuant to, part C of title III of the Energy Policy and Conservation Act [42 U.S.C. 6321 et seq.].

(g) Interim and final reports on program progress, findings, and legislative recommendations; criteria for evaluation of projects

The Secretary shall submit an interim report to the Congress not later than 6 months after August 14, 1976, (and every 6 months thereafter until the final report is made under this subsection) indicating the progress made in carrying out the demonstration program required by this section and shall submit a final report to the Congress, containing findings and legislative recommendations, not later than 2 years after August 14, 1976. As part of each report made under this subsection, the Secretary shall include an evaluation, based on the criteria described in subsection (h) of this section, of each demonstration project conducted under this section.

(h) Report on evaluation criteria to be used and results sought prior to funding of projects

Prior to undertaking any demonstration project under this section, the Secretary shall specify and report to the Congress the criteria

by which the Secretary will evaluate the effectiveness of the project and the results to be sought.

(i) Definitions

As used in this section:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United States designated by the President for purposes of this section.

(2) The term "approved", with respect to an energy conservation measure or a renewable-resource energy measure, means any such measure which is included on a list of such measures which is published by the Administrator of the Federal Energy Administration pursuant to section 365(e)(1) of the Energy Policy and Conservation Act [42 U.S.C. 6325(e)(1)]. The Administrator may, by rule, require that an energy audit be conducted as a condition of obtaining assistance under this section for a renewable-resource energy measure.

(3) The terms "energy audit", "energy conservation measure", and "renewable-resource energy measure" have the meanings prescribed for such terms in section 366 of the Energy Policy and Conservation Act [42 U.S.C. 6326].

(j) Authorization of appropriations

There is authorized to be appropriated, for purposes of this section, not to exceed $200,000,000. Any amount appropriated pursuant to this subsection shall remain available until expended.

(Pub. L. 91-609, title V, § 509, as added Pub. L. 94-385, title IV, § 441, Aug. 14, 1976, 90 Stat. 1162.)

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsecs. (c)(4) and (f), is Pub. L. 94-163, Dec. 22, 1975, 89 Stat. 871. Part C of title III of such act is classified generally to part B (§ 6321 et seq.) of subchapter III of chapter 77 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of Title 42 and Tables volume.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701z-2 of this title.

SUBCHAPTER I—HOUSING RENOVATION AND MODERNIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1430, 1464, 1709-1a, 1731a, 1743, 1761c of this title.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 5-717, 45-1701 of the District of Columbia Code.

§ 1702. Administrative provisions

The powers conferred by this chapter shall be exercised by the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary"). In order to carry out the provisions of this subchapter and subchapters II, III, V, VI, VII, VIII, IX-A, IX-B, and X of this chapter, the Secretary may establish such agencies, accept and utilize such voluntary and uncompensated services, utilize such Federal officers and employees, and, with the consent of the State, such State and local officers and employees, and appoint such other officers and employees as he may find necessary, and may prescribe their authorities, duties, responsibilities, and tenure and fix their compensation. The Secretary may delegate any of the functions and powers conferred upon him under this subchapter and subchapters II, III, V, VI, VII, VIII, IX-A, IX-B, and X of this chapter to such officers, agents, and employees as he may designate or appoint, and may make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books and books of reference, and for paper, printing, and binding) as are necessary to carry out the provisions of this subchapter and subchapters II, III, V, VI, VII, VIII, IX-A, IX-B, and X of this chapter, without regard to any other provisions of law governing the expenditure of public funds. All such compensation, expenses, and allowances shall be paid out of funds made available by this chapter: *Provided*, That notwithstanding any other provisions of law except provisions of law hereafter enacted expressly in limitation hereof, all expenses of the Department of Housing and Urban Development in connection with the examination and insurance of loans or investments under any subchapter of this chapter all properly capitalized expenditures, and other necessary expenses not attributable to general overhead in accordance with generally accepted accounting principles shall be considered nonadministrative and payable from funds made available by this chapter, except that, unless made pursuant to specific authorization by the Congress therefor, expenditures made in any fiscal year pursuant to this proviso, other than the payment of insurance claims and other than expenditures (including services on a contract or fee basis, but not including other personal services) in connection with the acquisition, protection, completion, operation, maintenance, improvement, or disposition of real or personal property of the Department acquired under authority of this chapter, shall not exceed 35 per centum of the income received by the Department of Housing and Urban Development from premiums and fees during the preceding fiscal year. The Secretary shall, in carrying out the provisions of this subchapter and subchapters II, III, V, VI, VII, VIII, IX-A, IX-B, and X of this chapter, be authorized, in his official capacity, to sue and be sued in any court of competent jurisdiction, State or Federal.

(June 27, 1934, ch. 847, title I, § 1, 48 Stat. 1246; Aug. 23, 1935, ch. 614, title III, § 344(a), 49 Stat. 722; Mar. 28, 1941, ch. 31, § 2, 55 Stat. 61; June 28, 1941, ch. 261, § 6, 55 Stat. 365; Aug. 10, 1948, ch. 832, title IV, § 402, 62 Stat. 1283; Aug. 8, 1949, ch. 403, § 2, 63 Stat. 576; Oct. 25, 1949, ch. 729, § 2, 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title II, § 202, 65 Stat. 303; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(bb), 79 Stat. 507; Nov. 3, 1966, Pub. L. 89-754, title X, § 1020(g), 80 Stat. 1296; May 25, 1967, Pub. L. 90-19, § 1(a)(1), (3), (c), 81 Stat. 17, 18.)

CODIFICATION

Provisions of second sentence that authorized the Secretary to appoint officers and employees, prescribe their tenure, and fix their compensation "without regard to the provisions of other laws applicable to the employment or compensation of other officers or employees of the United States" were omitted as obsolete and superseded.

Such appointment and tenure are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees. As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Department of Housing and Urban Development" and "Secretary" for "Federal Housing Administration" and "Commissioner" wherever appearing, provision for exercise of national housing powers by the Secretary of Housing and Urban Development for former authorization for creation of a Federal Housing Administration under a Federal Housing Commissioner appointed by the President with the consent of the Senate, and "Department" for "Administration" in the penultimate sentence, respectively.

1966—Pub. L. 89-754 added references to subchapter IX-B of this chapter.

1965—Pub. L. 89-117 added references to subchapters V and IX-A of this chapter.

1951—Act Sept. 1, 1951, inserted references to subchapter X of this chapter.

1950—Act Apr. 20, 1950, made technical amendments to section to reflect change in title of Administrator to Commissioner and to omit provisions relating to tenure and compensation of Commissioner.

1949—Joint Res. Oct. 25, 1949, added proviso at end of fourth sentence.

Act Aug. 8, 1949, made provisions applicable to subchapter VIII.

1948—Act Aug. 10, 1948 substituted "subchapters II, III, VI, and VII of this chapter" for "subchapters II, III, and VI of this chapter".

1941—Act June 28, 1941, substituted "$12,000" for "$10,000".

Act Mar. 28, 1941, substituted "subchapters II, III, and VI" for "subchapters II and III".

1935—Act Aug. 23, 1935, added last sentence.

EFFECTIVE DATE OF 1941 AMENDMENT

Amendment by act June 28, 1941, became effective July 1, 1941.

REPEALS

Act Aug. 10, 1948, ch. 832, title V, § 501(a), 62 Stat. 1283, formerly set out in the credit of this section, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 655.

SEPARABILITY OF PROVISIONS

Separability of act Mar. 28, 1941, see Separability of Provisions note under section 1736 of this title.

TRANSFER OF FUNCTIONS

All the functions, powers, and duties of the Federal Housing Administration and the Housing and Home Finance Agency were transferred to the Secretary of Housing and Urban Development who was authorized to delegate such functions, powers, and duties to such officers and employees of the Department of Housing and Urban Development as the Secretary may designate, see sections 3534 and 3535 of Title 42, The Public Health and Welfare.

Reorg. Plan No. 3 of 1947, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees, abolished the office of Federal Housing Administrator and transferred his functions to the Federal Housing Commissioner. It also consolidated the Federal Housing Administration with other agencies into the Housing and Home Finance Agency and transferred the functions of the Federal Loan Administrator with respect to the Federal Housing Administration and its functions to the Housing and Home Finance Administrator. The Federal Housing Administration was continued as a constituent agency within the Housing and Home Finance Agency. For provisions concerning appointment and compensation of the Federal Housing Commissioner, see section 3 of the Reorganization Plan.

All functions, powers, and duties of the National Housing Agency with respect to property, funds, and other assets which were formerly under the administration of the Farm Security Administration and were transferred to the National Housing Agency by Ex. Ord. No. 9070, set out as a note under former section 601 of Appendix to Title 50, War and National Defense, were repealed by section 2(a)(3) of act Aug. 14, 1946, ch. 964, 60 Stat. 1063, set out as a note under former sections 1001 to 1005d of Title 7, Agriculture, except with respect of housing projects and such other properties and assets now in the process of liquidation.

Federal Housing Administration consolidated with other agencies into the National Housing Agency during World War II, see Ex. Ord. No. 9070, set out as a note under former section 601 of Appendix to title 50.

Functions of the National Housing Agency with respect to non-farm-housing projects and other properties remaining under its jurisdiction pursuant to section 2(a)(3) of act Aug. 14, 1946, were transferred to the Public Housing Commissioner by Reorg. Plan No. 3 of 1947, § 4(b), eff. July 27, 1947, 12 F.R. 4983, 61 Stat. 955, set out in the Appendix to title 5.

Federal Housing Administration to be administered by the Federal Loan Administrator within the Federal Loan Agency, see Reorg. Plan No. I of 1939, § 402, eff. July 1, 1939, 4 F.R. 2730, 53 Stat. 1429 set out in the Appendix to title 5.

CROSS REFERENCES

Additional powers and duties of the Commissioner, see section 1701c of this title.

Prepayment of unpaid portion of purchase price of real estate, see section 640-1 of this title.

EXECUTIVE ORDER NO. 7058

Ex. Ord. No. 7058, May 29, 1935, authorized the former Federal Housing Administrator to adopt a seal for the former Federal Housing Administration; provided that copies of any books, records, papers, documents, agreements, orders, rules, or regulations of the Administration were admissible in evidence equally with the originals thereof; and empowered the Administrator or his designee to certify or exemplify copies of any books, records, papers, or documents of the Administration.

EXECUTIVE ORDER NO. 7280

Ex. Ord. No. 7280, Jan. 28, 1936, was issued as evidence of the creation of the former Federal Housing Administration and validated and confirmed the creation thereof.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1591a.

§ 1702a. Repealed. June 28, 1955, ch. 189, § 12(c)(14), 69 Stat. 182

Section, act June 27, 1934, ch. 847, title II, § 228, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 809, authorized the Commissioner to establish one position in GS-18, four in GS-17, and eight in GS-16 in the Federal Housing Administration.

§ 1703. Insurance of financial institutions

(a) The Secretary is authorized and empowered upon such terms and conditions as he may prescribe, to insure banks, trust companies, personal finance companies, mortgage companies, building and loan associations, installment lending companies and other such financial institutions, which the Secretary finds to be qualified by experience or facilities and approves as eligible for credit insurance, against losses which they may sustain as a result of loans and advances of credit, and purchases of obligations representing loans and advances of credit, made by them on and after July 1, 1939, and prior to June 30, 1977, for the purpose of (i) financing alterations, repairs, and improvements upon or in connection with existing structures or mobile homes, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood, or other catastrophe), by the owners thereof or by lessees of such real property under a lease expiring not less than six months after the maturity of the loan or advance of credit; and for the purpose of (ii) financing the purchase of a mobile home to be used by the owner as his principal residence or financing the purchase of a lot on which to place such home and paying expenses reasonably necessary for the appropriate preparation of such lot, including the installation of utility connections, sanitary facilities, and paving, and the construction of a suitable pad, or financing only the acquisition of such a lot either with or without such preparation by an owner of a mobile home; and for the purpose of financing the preservation of historic structures, and, as used in this section, the term "historic structures" means residential structures which are registered in the National Register of Historic Places or which are certified by the Secretary of the Interior to conform to National Register criteria; and the term "preservation" means restoration or rehabilitation undertaken for such purposes as are approved by the Secretary in regulations issued by him, after consulting with the Secretary of the Interior. In no case shall the insurance granted by the Secretary under this section to any such financial institution on loans, advances of credit, and purchases made by such financial institution for such purposes on and after July 1, 1939, exceed 10 per centum of the total amount of such loans, advances of credit, and purchases: *Provided,* That with respect to any loan, advance of credit, or purchase made after August 2, 1954, the amount of any claim for loss on any such individual loan, advance of credit or purchase paid by the Secretary under the provisions of this section to a lending institution shall not exceed 90 per centum of such loss.

After August 2, 1954, (i) the Secretary shall not enter into contracts for insurance pursuant to this section except with lending institutions which are subject to the inspection and supervision of a governmental agency required by law to make periodic examinations of their books and accounts, and which the Secretary finds to be qualified by experience or facilities to make and service such loans, advances or purchases, and with such other lending institutions which the Secretary approves as eligible for insurance pursuant to this section on the basis of their credit and their experience or facilities to make and service such loans, advances or purchases; (ii) only such items as substantially protect or improve the basic livability or utility of properties shall be eligible for financing under this section, and therefore the Secretary shall from time to time declare ineligible for financing under this section any item, product, alteration, repair, improvement, or class thereof which he determines would not substantially protect or improve the basic livability or utility of such properties, and he may also declare ineligible for financing under this section any item which he determines is especially subject to selling abuses; and (iii) the Secretary is authorized and directed, by such regulations or procedures as he shall deem advisable, to prevent the use of any financial assistance under this section (1) with respect to new residential structures (other than mobile homes) that have not been completed and occupied for at least six months, or (2) which would, through multiple loans, result in an outstanding aggregate loan balance with respect to the same structure exceeding the dollar amount limitation prescribed in this subsection for the type of loan involved: *Provided,* That this clause (iii) may in the discretion of the Secretary be waived with respect to the period of occupancy or completion of any such new residential structures. The Secretary is hereby authorized and directed, with respect to mobile homes to be financed under this section, to (i) prescribe minimum property standards to assure the livability and durability of the mobile home and the suitability of the site on which the mobile home is to be located; and (ii) obtain assurances from the borrower that the mobile home will be placed on a site which complies with the standards prescribed by the Secretary and with local zoning and other applicable local requirements.

Alterations, repairs, and improvements upon or in connection with existing structures may include the provision of fire safety equipment, energy conserving improvements, or the installation of solar energy systems. As used in this section—

(1) the term "fire safety equipment" means any device or facility which is designed to reduce the risk of personal injury or property damage resulting from fire and is in conformity with such criteria and standards as shall be prescribed by the Secretary;

(2) the term "energy conserving improvements" means any addition, alteration, or improvement to an existing or new structure which is designed to reduce the total energy

requirements of that structure, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the National Bureau of Standards; and

(3) the term "solar energy system" means any addition, alteration, or improvement to an existing or new structure which is designed to utilize solar energy to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the National Bureau of Standards.

(b) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it (1) if the amount of such loan, advance of credit, or purchase exceeds $10,000, except that an obligation financing the purchase of a mobile home may be in an amount not exceeding $12,500 ($20,000 in the case of a mobile home composed of two or more modules); (2) if such obligation has a maturity in excess of twelve years and thirty-two days, except that such maturity limitation shall not apply if such loan, advance of credit, or purchase is for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes: Provided, That an obligation financing the purchase of a mobile home may have a maturity not in excess of fifteen years and thirty-two days or (3) unless the obligation bears such interest, has such maturity, and contains such other terms, conditions, and restrictions as the Secretary shall prescribe, in order to make credit available for the purposes of this subchapter: *Provided,* That any such obligation with respect to which insurance is granted under this section on or after sixty days from August 7, 1956 shall bear interest, and insurance premium charges, not exceeding (A) an amount, with respect to so much of the net proceeds thereof as does not exceed $2,500, equivalent to $5.50 discount per $100 of original face amount of a one-year note payable in equal monthly installments, plus (B) an amount, with respect to any portion of the net proceeds thereof in excess of $2,500, equivalent to $4.50 discount per $100 of original face amount of such a note; *Provided further,* That the amounts referred to in clauses (A) and (B) of the preceding proviso, when correctly based on tables of calculations issued by the Secretary or adjusted to eliminate minor errors in computation in accordance with requirements of the Secretary, shall be deemed to comply with such proviso: *Provided further,* That insurance may be granted to any such financial institution with respect to any obligation not in excess of $25,000 nor an average amount of $5,000 per family unit and having a maturity not in excess of twelve years and thirty-two days representing any such loan, advance of credit, or purchase made by it if such loan, advance of credit, or purchase is made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families: *Provided further,* That any obligation with respect to which insurance is granted under this section on or after July 1, 1939, may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of the maximum provided for in this subsection. Notwithstanding the foregoing limitations, any loan to finance fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility may involve such principal amount and have such maturity as the Secretary may prescribe.

Notwithstanding the limitations contained in the first proviso to clause (2) of the preceding sentence, a loan financing the purchase of a mobile home and an undeveloped lot on which to place the home shall—

(A) involve an amount not exceeding (i) the maximum amount under clause (1) of the first paragraph of this subsection, and (ii) such amount not to exceed $5,000 as may be necessary to cover the cost of purchasing the lot; and

(B) have a maturity not exceeding fifteen years and thirty-two days (twenty years and thirty-two days in the case of a mobile home composed of two or more modules).

A loan financing the purchase of a mobile home and a suitably developed lot on which to place the home shall—

(A) involve an amount not exceeding (i) the maximum amount under clause (1) of the first paragraph of this subsection, and (ii) such amount not to exceed $7,500 as may be necessary to cover the cost of purchasing the lot; and

(B) have a maturity not exceeding fifteen years and thirty-two days (twenty years and thirty-two days in the case of a mobile home composed of two or more modules).

A loan financing the purchase, by an owner of a mobile home which is the principal residence of that owner, of only a lot on which to place that mobile home shall—

(A) involve such an amount as may be necessary to cover the cost of purchasing the lot but not exceeding (i) $5,000 in the case of an undeveloped lot, or (ii) $7,500 in the case of a developed lot; and

(B) have a maturity not exceeding ten years and thirty-two days.

A mobile home lot loan may be made only if the owner certifies that he will place his mobile home on the lot acquired with such loan within six months after the date of such loan.

A loan financing the preservation of a historic structure shall—

(1) involve an amount not exceeding $15,000 per family unit: and

(2) have a maturity not exceeding fifteen years and thirty-two days.

(c)(1) Notwithstanding any other provision of law, the Secretary shall have the power, under regulations to be prescribed by him and approved by the Secretary of the Treasury, to assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted

under this section, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such insurance until such time as such obligations may be referred to the Attorney General for suit or collection.

(2) The Secretary is authorized and empowered (a) to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, and upon such terms and conditions and for such considerations as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by him in connection with the payment of insurance heretofore or hereafter granted under this subchapter and (b) to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary in connection with such real or personal property by way of deficiency or otherwise: *Provided,* That section 5 of title 41 shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000. The power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this subchapter may be exercised by an officer appointed by him without the execution of any express delegation of power or power of attorney: *Provided,* That nothing in this paragraph shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer or agent he may appoint.

(d) The Secretary is authorized and empowered, under such regulations as he may prescribe, to transfer to any such approved financial institution any insurance in connection with any loans and advances of credit which may be sold to it by another approved financial institution.

(e) The Secretary is authorized to waive compliance with regulations heretofore or hereafter prescribed by him with respect to the interest and maturity of and the terms, conditions, and restrictions under which loans, advances of credit, and purchases may be insured under this section and section 1706a of this title, if in his judgment the enforcement of such regulations would impose an injustice upon an insured institution which has substantially complied with such regulations in good faith and refunded or credited any excess charge made, and where such waiver does not involve an increase of the obligation of the Secretary beyond the obligation which would have been involved if the regulations had been fully complied with.

(f) The Secretary shall fix a premium charge for the insurance hereafter granted under this section, but in the case of any obligation representing any loan, advance of credit, or purchase, such premium charge shall not exceed an amount equivalent to 1 per centum per annum of the net proceeds of such loan, advance of credit, or purchase, for the term of such obligation, and such premium charge shall be payable in advance by the financial institution and shall be paid at such time and in such manner as may be prescribed by the Secretary.

(g) Any payment for loss made to an approved financial institution under this section shall be final and incontestable after two years from the date the claim was certified for payment by the Secretary, in the absence of fraud or misrepresentation on the part of such institution, unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two-year period.

(h) The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this subchapter.

(June 27, 1934, ch. 847, title I, § 2, 48 Stat. 1246; May 28, 1935, ch. 150, § 28(a), (b), 49 Stat. 299; Aug. 23, 1935, ch. 614, title III, § 344(b), 49 Stat. 722; Apr. 3, 1936, ch. 165, § 1, 49 Stat. 1187; Apr. 17, 1936, ch. 234, § 4(a), (b), 49 Stat. 1234; Apr. 22, 1937, ch. 121, § 2, 50 Stat. 71; Feb. 3, 1938, ch. 13, § 2, 52 Stat. 9; June 3, 1939, ch. 175, §§ 1, 2, 53 Stat. 804, 805; June 28, 1941, ch. 261, §§ 1–5, 55 Stat. 364, 365; May 26, 1942, ch. 319, § 13, 56 Stat. 305; Mar. 23, 1943, ch. 21, § 2, 57 Stat. 43; Oct. 15, 1943, ch. 259, §§ 3, 4, 57 Stat. 571; June 26, 1947, ch. 152, 61 Stat. 182; Aug. 10, 1948, ch. 832, title I, § 101(s), 62 Stat. 1275; July 15, 1949, ch. 338, title II, § 201(1), 63 Stat. 421; Aug. 30, 1949, ch. 524, 63 Stat. 681; Oct. 25, 1949, ch. 729, § 1(1), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §§ 101(a), 122, 64 Stat. 48, 59; Mar. 10, 1953, ch. 5, § 1, 67 Stat. 4; Aug. 2, 1954, ch. 649, title I, §§ 101(a), 102, 68 Stat. 590; June 30, 1955, ch. 251, § 1(1), 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, § 101, 69 Stat. 635; Feb. 10, 1956, ch. 33, 70 Stat. 11; Aug. 7, 1956, ch. 1029, title I, § 101, 70 Stat. 1091; July 12, 1957, Pub. L. 85–104, title I, § 105, 71 Stat. 297; Sept. 23, 1959, Pub. L. 86–372, title I, § 101, 73 Stat. 654; Sept. 14, 1960, Pub. L. 86–788, § 2(a), 74 Stat. 1028; June 30, 1961, Pub. L. 87–70, title VI, § 604(a), 75 Stat. 177; Sept. 2, 1964, Pub. L. 88–560, title I, § 101, 78 Stat. 769; Aug. 10, 1965, Pub. L. 89–117, title II, § 202(a), title XI, § 1108(a), 79 Stat. 465, 504; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (d), 81 Stat. 17, 18; Aug. 1, 1968, Pub. L. 90–448, title III, § 303, 82 Stat. 509; Sept. 30, 1969, Pub. L. 91–78, § 2(a), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title I, §§ 101(a), 103(c), Dec. 24, 1969, 83 Stat. 379, 380; Oct. 2, 1970, Pub. L. 91–432, § 1(a), 84 Stat. 886; Oct. 21, 1970, Pub. L. 91–473, § 1(a), 84 Stat. 1064; Dec. 1, 1970, Pub. L. 91–525, § 1(a), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91–609, title I, §§ 101(a), 113, 84 Stat. 1770, 1773; Oct. 18, 1972, Pub. L. 92–503, § 1(a), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93–85, § 1(a), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, § 1(a), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 309(a)–(d), 316(a), 88 Stat. 680, 681, 685; Oct. 18, 1974, Pub. L. 93–449, § 4(a), 88 Stat. 1366; Dec. 23, 1975, Pub. L. 94–173, § 1, 89 Stat. 1027.)

REFERENCES IN TEXT

Section 1706a of this title, referred to in subsec. (e), was repealed by act June 3, 1939, ch. 175, § 3, 53 Stat. 805, eff. July 1, 1939.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-173 substituted "$12,500 ($20,000" for "$10,000 ($15,000" in cl. 1.

1974—Subsec. (a). Pub. L. 93-449, § 4(a)(1), added provisions relating to financing the preservation of historic structures and defining the terms "historic structures" and "preservation".

Pub. L. 93-383, §§ 309(b)(1), (2), (c), 316(a), substituted "June 30, 1977" for "October 1, 1974" in provisions preceding initially designated cl. (i), added "or mobile homes" following "in connection with existing structures" in initial cl. (i), provisions relating to the financing of the purchase of a lot on which a mobile home is to be placed and payment of reasonable expenses for the appropriate preparation of such lot, and paragraph relating to alteration, repair, and improvement upon or in connection with existing structures with respect to inclusion of fire safety equipment, etc.

Subsec. (b). Pub. L. 93-449, § 4(a)(2), added paragraph relating to loans financing the preservation of historic structures.

Pub. L. 93-383, § 309(a), (b)(3), (d), in cl. (1) substituted "exceeds $10,000" for "exceeds $5,000", in cl. (2) substituted provisions relating to maturity of obligation in excess of twelve years and thirty-two days for provisions relating to maturity of obligation in excess of three years and thirty-two days and authorization of increase to seven years and thirty-two days under conditions determined by the Secretary and substituted "fifteen years and thirty-two days" for "twelve years and thirty-two days (fifteen years and thirty-two days in the case of a mobile home composed of two or more modules)", in cl. (3) substituted "$25,000" for "$15,000", "$5,000" for "$2,500", and "twelve years" for "seven years", added provision relating to loans to finance fire safety equipment for a nursing home, etc., and added paragraphs relating to financing the purchase of a mobile home and an undeveloped lot on which the mobile home is to be placed, financing the purchase of a mobile home and a suitably developed lot on which the mobile home is to be placed, and financing the purchase by the owner of a mobile home of a lot on which the mobile home is to be placed.

1973—Subsec. (a). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Subsec. (a). Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Subsec. (a). Pub. L. 91-609, § 101(a), substituted "October 1, 1972" for "January 1, 1971".

Pub. L. 91-525 substituted "January 1, 1971" for "December 1, 1970".

Pub. L. 91-473 substituted "December 1, 1970" for "November 1, 1970".

Pub. L. 91-432 substituted "November 1, 1970" for "October 1, 1970".

Subsec. (b). Pub. 91-609, § 113(1), (2), in cl. (1) prohibited insurance with respect to obligations representing a loan where loan exceeds "($15,000 in the case of a mobile home composed of two or more modules)", and in cl. (2) prescribed maturity date for obligation financing purchase of a mobile home of "(fifteen years and thirty- two days in the case of a mobile home composed of two or more modules)".

1969—Subsec. (a). Pub. L. 91-152, §§ 101(a), 103(c)(1)(4), substituted "October 1, 1970" for "January 1, 1970", designated as "(i)" the provisions authorizing and empowering the Secretary to insure institutions financing alterations, repairs, and improvements, etc., added the provisions designated as "(ii)" dealing with institutions which finance the purchase of mobile homes used by the owner as his principal residence, added "(other than mobile homes)" following "(1) with respect to new residential structures", and added the provisions authorizing and directing the Secretary to prescribe minimum property standards and conformance to local zoning requirements with respect to mobile homes financed by insured institutions.

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

Subsec. (b). Pub. L. 91-152, § 103(c)(5), (6), in cl. (1) added the provision excepting obligations financing the purchase of mobile homes in an amount not exceeding $10,000, and in cl. (2) added the proviso limiting obligations financing the purchase of mobile homes to a maturity date not in excess of twelve years and thirty- two days.

Pub. L. 90-448 substituted "$5,000" for "$3,500", "seven years" for "five years", "$5.50 discount" for "$5 discount", and "$4.50 discount" for "$4 discount".

Subsec. (c)(2). Pub. L. 91-152, § 103(c)(7), substituted "real or personal property" for "real property" wherever appearing therein.

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b), (c)(1), (2), and (d) to (h) of this section.

Subsec. (c)(2). Pub. L. 90-19, § 1(d), substituted "an officer" for "the Commissioner or by any Assistant Commissioner".

1965—Subsec. (a). Pub. L. 89-117 § 202(a), substituted "October 1, 1969" for "October 1, 1965".

Subsec. (f). Pub. L. 89-117, § 1108(a), struck out provisions directing the deposit of premium charges and fees and property held with respect to insurance into a United States Treasury account to be used to defray Federal Housing Administration expenses and to pay insurance claims and making allowance for transfer and merger of funds and disposition of surplus funds.

1964—Subsec. (g). Pub. L. 88-560 deleted "after December 31, 1957," following "Any payment for loss made".

1961—Subsec. (a). Pub. L. 87-70 substituted "October 1, 1965" for "October 1, 1961".

1960—Subsec. (a). Pub. L. 86-788 substituted "October 1, 1961" for "October 1, 1960", and deleted provisions limiting the aggregate amount of all loans, advances of credit, and obligations purchased, with respect to which insurance could be granted under the section, at $1,750,000,000.

1959—Subsec. (a). Pub. L. 86-372 substituted "October 1, 1960" for "September 30, 1959".

1957—Subsec. (g). Pub. L. 85-104 added subsec. (g).

Subsec. (h). Pub. L. 85-104 redesignated former subsec. (g) as (h).

1956—Subsec. (a). Act Aug. 7, 1956, § 101(a), substituted "September 30, 1959" for "September 30, 1956" and proviso of second par. authorizing waiver of clause (iii) in discretion of Commissioner with respect to occupancy of completion of new residential structures, for former proviso providing that the clause (iii) occupancy requirement should not be mandatory with respect to new residences damaged by a major disaster.

Act Feb. 10, 1956, removed the six months' occupancy requirement with respect to new residences damaged by a major disaster.

Subsec. (b). Act Aug. 7, 1956, § 101(b), (c), increased amount of loans which can be insured to $3,500 in lieu of former provisions providing $2,500 for improvement of existing structures and $3,000 for construction of new structures, increased maximum term of loans which can be insured from 3 years and thirty-two days to 5 years and thirty-two days, inserted proviso limiting interest and premium charges equivalent to $5 discount per $100 for proceeds of loan up to $2,500 and $4 discount per $100 for proceeds in excess of $2,500, and substituted "$15,000 nor an average amount of $2,500 per family unit" for "$10,000".

1955—Subsec. (a). Act Aug. 11, 1955, substituted "September 30, 1956" for "August 1, 1955".

Act June 30, 1955, substituted "August 1, 1955" for "July 1, 1955".

1954—Subsec. (a). Act Aug. 2, 1954, § 101(a), in second sentence, inserted the proviso restricting claims for losses on individual loans, advances of credit, and purchases to 90 per centum of the loss in each such case, and added second par.

Subsec. (f). Act Aug. 2, 1954, § 102, added the last two sentences with respect to termination of the Title I Claims Account as of August 1, 1954.

1953—Subsec. (a). Act Mar. 10, 1953, increased the Subchapter I loan insurance authorization from $1,250,000,000 to $1,750,000,000.

1950—Subsec. (a). Act Apr. 20, 1950, § 101(a)(1), (2), substituted "July 1, 1955" for "Mar. 1, 1950", and limited the total amount of outstanding loans with respect to which insurance is granted under this section to $1,250,000,000 outstanding at any one time.

Subsec. (b)(1). Act Apr. 20, 1950, § 101(a)(3), substituted "$3,000" for "$4,500".

Subsec. (b)(2). Act Apr. 20, 1950, § 101(a)(4), struck out the words "residential or" preceding "agricultural purposes".

Subsec. (f). Act Apr. 20, 1950, § 101(a)(5) substituted word "section" for "subchapter" wherever appearing.

1949—Subsec. (a). Joint Res. Oct. 25, 1949, substituted "March 1, 1950" for "November 1, 1949" in first sentence and "$225,000,000" for "$200,000,000" in last sentence.

Act Aug. 30, 1949, substituted "November 1, 1949" for "September 1, 1949".

Act July 15, 1949, substituted "September 1, 1949" for "July 1, 1949".

1948—Subsec. (a). Act Aug. 10, 1948, § 101(s)(1), substituted "$200,000,000" for "$165,000,000".

Subsec. (b). Act Aug. 10, 1948, § 101(s)(2 to 4), substituted "$4,500" for "$3,000", struck out first proviso and inserted in lieu thereof a new proviso, and struck out the last sentence.

1947—Subsec. (a). Act June 26, 1947, extended provisions of section for two years from 1947 to 1949.

1943—Subsec. (a). Act Oct. 15, 1943, substituted "1947" for "1944" in first sentence.

Act Mar. 23, 1943, substituted "1944" for "1943" in first sentence.

Subsec. (f). Act Oct. 15, 1943, § 4, struck out "three-fourths of" preceding "1 per centum" in first sentence.

1942—Subsec. (b). Act May 26, 1942, amended provisions generally.

1941—Subsec. (a). Act June 28, 1941, §§ 1, 2, substituted "July 1, 1943" for "July 1, 1941" in the first sentence; inserted "and other sources" after "premiums"; and substituted "$165,000,000" for "$100,000,000".

Subsec. (b). Act June 28, 1941, § 3, substituted "made for the purpose of financing the alteration, repair, or improvement of existing structures exceeds $2,500 (or in the case of the alteration, repair, or improvement of an existing dwelling designed or to be designed for more than one family, exceeds $5,000), or for the purpose of financing the construction of new structures exceeds $3,000" for "exceeds $2,500"; substituted in clause (2) the words "where the loan, advance of credit, or purchase does not exceed $2,500, or has a maturity in excess of five years and thirty-two days, where the loan, advance of credit, or purchase exceeds $2,500 but does not exceed $5,000; except that such maturity limitations shall not apply if" for "unless"; and added proviso at end.

Subsec. (c). Act June 28, 1941, § 4, numbered subsec, as par. (1), inserted "personal" before "property" therein, and added par. (2).

Subsec. (f). Act June 28, 1941, § 5, added to last sentence the words "and all moneys collected by the Administrator as fees of any kind in connection with the granting of insurance as provided in this section, and all moneys derived from the sale, collection, disposition, or compromise of any evidence of debt, contract, claim, property, or security assigned to or held by the Administrator as provided in subsection (c) of this section with respect to insurance collected on and after July 1, 1939".

1939—Subsecs. (a), (b). Act June 3, 1939, § 1, amended provisions generally.

Subsecs. (f), (g). Act June 3, 1939, § 2, added subsecs. (f) and (g).

1938—Subsecs. (a), (b). Act Feb. 3, 1938, amended provisions generally.

1937—Subsec. (a). Act Apr. 22, 1937, in the third sentence, limited the total liability for all insurance under this section and former section 1026a of this title, not to exceed in the aggregate $100,000,000.

1936—Subsecs. (a) to (d). Act Apr. 3, 1936, amended provisions generally.

Subsec. (e). Act Apr. 17, 1936, added subsec. (e).

1935—Subsec. (a). Act Aug. 23, 1935, substituted the words "and the purchase and installation of equipment and machinery on real property" for "including the installation of equipment and machinery" in the first sentence.

Act May 28, 1935, substituted "April" for "January" in first sentence and inserted before the period at the end thereof a comma and the following: "including the installation of equipment and machinery" and amended generally the last sentence.

EFFECTIVE DATE OF 1954 AMENDMENT

Subsec. (b) of section 101 of act Aug. 2, 1954, provided that, as used in the amendments made by such act to subsec. (a) of this section (see "1954 Amendments" note above), the words "effective date of the Housing Act of 1954 [Act Aug. 2, 1954]" should mean the first day after the first full calendar month following the date of approval of such act (Aug. 2, 1954).

EFFECTIVE DATE OF 1950 AMENDMENT

Section 101(b) of act Apr. 20, 1950, provided that amendments made by section 101(a) of act Apr. 20, 1950, shall become effective as of Mar. 1, 1950.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of subsec. (a) of this section by act July 15, 1949, was made effective as of June 30, 1949, by section 202 of act July 15, 1949.

EFFECTIVE DATE OF 1939 AMENDMENT

Act June 3, 1939, §§ 1 and 2, amending subsecs. (a), (b), and adding (f) and (g) was made effective July 1, 1939, by section 4 of act June 3, 1939.

EFFECTIVE DATE OF 1936 AMENDMENT

The amendment by act Apr. 3, 1936, became effective Apr. 1, 1936.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by section 122 of act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

INCONSISTENT LAWS

Section 818 of act Aug. 2, 1954, provided that: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [see 1954 Short Title note set out under section 1701 of this title], the provisions of this Act shall be controlling."

POWERS AND AUTHORITIES OF ACT AUGUST 2, 1954 AS CUMULATIVE; SEPARABILITY OF PROVISIONS

Section 819 of act Aug. 2, 1954, provided that: "Except as may be otherwise expressly provided in this Act [see 1954 Short Title note set out under section 1701 of this title], all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances."

REPAYMENT TO TREASURY ON CAPITAL ACCOUNT OF SUBCHAPTER I INSURANCE FUND

Section 2 of act Mar. 10, 1953, authorized the Federal Housing Commissioner to pay out of the capital account of the Title I Insurance Fund to the Secretary of the Treasury, prior to June 30, 1954, the sum of

$8,333,313.65 either in one lump sum or in installments and that the first payment be made on July 1, 1953.

CROSS REFERENCES

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note under section 1743 of this title.

States, Territories, and Possessions, applicability of section to, see section 1706d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706d, 1709-1, 1715h, 1715k, 1715t, 1715w, 1715z, 1715z-5, 1735c, 1757 of this title; title 42 section 1490g.

§ 1704. Repealed. Apr. 3, 1936, ch. 165, § 2, 49 Stat. 1188

Section, act June 27, 1934, ch. 847, title I, § 3, 48 Stat. 1247, related to loans to financial institutions.

§ 1705. Allocation of funds

For the purposes of carrying out the provisions of this subchapter and subchapters II and III of this chapter the President, in his discretion, is authorized to provide suuch [1] funds or any portion thereof by allotment to the Secretary from any funds that are available, or may hereafter be made available, to the President for emergency purposes.

(June 27, 1934, ch. 847, title I, § 4, 48 Stat. 1247; June 30, 1947, ch. 166, title II, § 206(*l*), 61 Stat. 208; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1947—Act June 30, 1947, repealed references to the Reconstruction Finance Corporation.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1735 of this title.

§ 1706. Repealed. Aug. 2, 1954, ch. 649, title VIII, § 802 (b), 68 Stat. 642

Section, acts June 27, 1934, ch. 847, title I, § 5, 48 Stat. 1247; Mar. 28, 1941, ch. 31, § 3, 55 Stat. 61; Aug. 10, 1948, ch. 832, title IV, § 402 (part), 62 Stat. 1283; Aug. 8, 1949, ch. 403, § 2 (part), 63 Stat. 576; Sept. 1, 1951, ch. 378, title II, § 202 (part), 65 Stat. 303, which related to reports to Congress, is covered by section 1701*o* of this title.

§ 1706a. Repealed. June 3, 1939, ch. 175, § 3, 53 Stat. 805, eff. July 1, 1939

Section, act June 27, 1934, ch. 847, title I, § 6, as added act Apr. 17, 1936, ch. 234, § 3, 49 Stat. 1233, and amended act Apr. 22, 1937, ch. 121, § 1, 50 Stat. 70, related to insurance of financial institutions financing rehabilitation of property damaged by fires, floods, storms, etc.

[1] So in original. Probably should read "such".

§ 1706b. Taxation of real property held by Secretary

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Secretary in connection with the payment of insurance heretofore or hereafter granted under this subchapter from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title I, § 7, as added June 28, 1941, ch. 261, § 7, 55 Stat. 365, and amended Apr. 20, 1950, ch. 94 title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1706c. Insurance of mortgages

(a) Supplemental system; limitation on amount; termination of authority

To assist in providing adequate housing for families of low and moderate income, particularly in suburban and outlying areas, this section is designed to supplement systems of mortgage insurance under other provisions of this chapter by making feasible the insurance of mortgages covering properties in areas where it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas. The Secretary is authorized, upon application by the morrtgagee, to insure, as hereinafter provided, any mortgage (as defined in section 1707 of this title) offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon: *Provided,* That the aggregate amount of principal obligations of all mortgages insured under this section and outstanding at any one time shall not exceed $100,000,000, except that with the approval of the President such aggregate amount may be increased at any time or times by additional amounts aggregating not more than $150,000,000 upon a determination by the President, taking into account the general effect of any such increase upon conditions in the building industry and upon the national economy, that such increase is in the public interest: *And provided further,* That no mortgage shall be insured under this section after August 2, 1954, except pursuant to a commitment to insure issued on or before such date.

(b) Eligibility conditions

To be eligible for insurance under this section, a mortgage shall—

(1) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(2) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $5,700, and not to exceed 95 per centum of the appraised value, as of the date the mortgage is accepted for insurance, of a property upon which there is located a dwelling designed principally for a single-family residence, and which is approved for mortgage insurance prior to the beginning of construction: *Provided,* That the mortgagor shall be the owner and occupant of the property at the time of insurance and shall have paid on account of the property at least 5 per centum of the Secretary's estimate of the cost of acquisition in cash or its equivalent, or shall be the builder constructing the dwelling, in which case the principal obligation shall not exceed 85 per centum of the appraised value of the property or $5,100: *Provided further,* That the Secretary finds that the project with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas: *And provided further,* That, where the mortgagor is the owner and occupant of the property and establishes (to the satisfaction of the Secretary) that his home, which he occupied as an owner or as a tenant, was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm or other catastrophe, which the President, pursuant to sections 5122(2) and 5141 of title 42, has determined to be a major disaster, such maximum dollar limitation may be increased by the Secretary from $5,700 to $7,000, and the percentage limitation may be increased by the Secretary from 95 per centum to 100 per centum of the appraised value;

(3) have a maturity satisfactory to the Secretary but not to exceed thirty years from the date of insurance of the mortgage;

(4) contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary;

(5) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time;

(6) provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided and to the service charge, if any) to amortization of the principal of the mortgage; and

(7) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, service charges, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, and other matters as the the Secretary may in his discretion prescribe.

(c) Premium charge

The Secretary is authorized to fix a premium charge for the insurance of mortgages under this section, but in the case of any mortgage, such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the mortgagee, either in cash or in debentures issued by the Secretary under this section at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided,* That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds, upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required, that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe. In the event that the principal obligation of any mortgage accepted for insurance under this section is paid in full prior to the maturity date, the Secretary is further authorized, in his discretion, to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until such maturity date; and in the event that the principal obligation is paid in full as herein set forth, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid.

(d) Release of mortgagor

The Secretary may, at any time under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(e) Conclusiveness of insurance contract as to eligibility

Any contract of insurance executed by the Secretary under this section shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(f) Rights of mortgagee upon foreclosure

In any case in which the mortgagee under a mortgage insured under this section shall have foreclosed and taken possession of the mortgaged property in accordance with the regulations of, and within a period to be determined

by, the Secretary or shall, with the consent of the Secretary, have otherwise acquired such property from the mortgagor after default, the mortgagee shall be entitled to receive the benefits of the insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 203(b)(2)(D) of this Act.

(g) Applicability of other sections

Subsections (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall be applicable to mortgages insured under this section except that all references therein to the Mutual Mortgage Insurance Funds or the Fund shall be construed to refer to the General Insurance Fund, and all references therein to section 1709 of this title shall be construed to refer to this section: *Provided*, That debentures issued in connection with mortgages insured under this section shall have the same tax exemption as debentures issued in connection with mortgages insured under section 1709 of this title.

(June 27, 1934, ch. 847, title I, § 8, as added Apr. 20, 1950, ch. 94, title I, § 102, 64 Stat. 48, and amended Aug. 3, 1951, ch. 293, 65 Stat. 173; June 30, 1953, ch. 170, § 2, 67 Stat. 121; Aug. 2, 1954, ch. 649, title I, § 103, 68 Stat. 591; Sept. 23, 1959, Pub. L. 86-372, title I, § 116(a), 73 Stat. 664; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(b), 79 Stat. 504; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), 81 Stat. 17; Dec. 31, 1970, Pub. L. 91-606, title III, § 301(b), 84 Stat. 1758; May 22, 1974, Pub. L. 93-288, title VI, § 602(b), 88 Stat. 163.)

REFERENCES IN TEXT

Section 203(b)(2)(D) of this Act, referred to in subsec. (f), which was formerly classified to section 1709(b)(2)(D) of this title, was repealed by act Aug. 2, 1954, ch. 649, title I, § 104, 68 Stat. 591.

The General Insurance Fund, referred to in subsec. (g), was established by section 1735c of this title.

AMENDMENTS

1974—Subsec. (b)(2). Pub. L. 93-288 substituted "sections 5122(2) and 5141 of title 42" for "section 4402(1) of title 42".

1970—Subsec. (b)(2). Pub. L. 91-606 substituted reference to section "4402(1)" for "1855a(a)" of title 42.

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b)(1) to (4), (6), (7), and (c) to (f) of this section.

Subsec. (b)(2). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's".

1965—Subsec. (g). Pub. L. 89-117, § 1108(b)(1), substituted "General Insurance Fund" for "Title I Housing Insurance Fund".

Subsec. (h). Pub. L. 89-117, § 1108(b)(2), repealed subsec. (h) which created the Title I Housing Insurance Fund.

Subsec. (i). Pub. L. 89-117, § 1108(b)(2), repealed subsec. (i) which dealt with the disposition of surplus funds of the Title I Housing Insurance Fund, purchase of debentures, and credits and charges to fund.

1959—Subsec. (g). Pub. L. 86-372 included subsecs. (j) and (k) of section 1710 of this title.

1954—Subsec. (a). Act Aug. 2, 1954, added the proviso prohibiting the insurance of mortgages under this section after Aug. 2, 1954, except pursuant to commitments to insure issued on or before such date.

1953—Subsec. (b)(2). Act June 30, 1953, raised the maximum mortgage, where the mortgagor is the owner-occupant, from $4,750, not exceeding 95 per cent of value, to $5,700, not exceeding 95 per cent of value; and raised tne maximum mortgage, where the builder is the mortgagor, from $4,250, not exceeding 85 per cent of value, to $5,100, not exceeding 85 per cent of value.

1951—Subsec. (b)(2). Act Aug. 3, 1951, permitted more liberal mortgage insurance for those building low-cost homes to replace their homes lost in a flood or other major disaster.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

REPAYMENT TO TREASURY ON CAPITAL ACCOUNT OF TITLE I INSURANCE FUND

Section 2 of act Mar. 10, 1953, ch. 5, 67 Stat. 5, required the Federal Housing Commissioner prior to June 30, 1954, to pay out of the capital account of the Title I Insurance Fund to the Secretary of the Treasury the amount of $8,333,313.65 which constituted the Government investment in the capital account of the Title I Insurance Fund.

CROSS REFERENCES

States, Territories, and Possessions, applicability of section to, see section 1706d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706d, 1715f of this title.

§ 1706d. Applicability of sections 1703 and 1706c to States, Territories, and Possessions

The provisions of sections 1703 and 1706c of this title shall be applicable in the several States and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(June 27, 1934, ch. 847, title I, § 9, as added July 14, 1952, ch. 723, § 10(a)(1), 66 Stat. 603, and amended June 25, 1959, Pub. L. 86-70, § 10(a), 73 Stat. 142; July 12, 1960, Pub. L. 86-654, § 6, 74 Stat. 411; Dec. 24, 1969, Pub. L. 91-152, title IV, § 403(c)(3), 83 Stat. 395.)

AMENDMENTS

1969—Pub. L. 91-152 added "the Trust Territory of the Pacific Islands," following "Guam,".

1960—Pub. L. 86-624 eliminated "Hawaii," which preceded "Puerto Rico".

1959—Pub. L. 86-70 eliminated "Alaska," which preceded "Hawaii".

§ 1706e. Urban homestead program of unit of general local government, State, or designated public agency

(a) Transfer by Secretary of real property; payment; criteria

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to transfer without payment to a unit of general local government or a State, or a public agency designated by a unit of general local government or a State, any real property—

(1) which is improved by a one- to four-family residence;

(2) to which the Secretary holds title;

(3) which is not occupied;

(4) which is requested by such unit, State, or agency for use in an urban homestead program; and

(5) which the Secretary determines is suitable for use in an urban homestead program which meets the requirements of subsection (b) of this section. In determining the suitability of such property for use in an urban homestead program, the Secretary shall consider—

(A) the difficulties and delays which would be involved in the sale of the property;

(B) the value of any repairs and improvement required by the program;

(C) the benefits to the community and the reduced administrative costs to the Federal Government which would accrue from the expedited occupancy of the unoccupied property; and

(D) the possible financial loss to the Federal Government which may result from the transfer of the property without payment.

(b) Approval by Secretary; criteria

For the purposes of subsections (a) and (c) of this section, the Secretary shall approve an urban homestead program carried out by a unit of general local government or a State or a public agency designated by a unit of general local government or a State, which provides for—

(1) the conditional conveyance of unoccupied residential property by the responsible administrative entity to an individual or a family without any substantial consideration;

(2) an equitable procedure for selecting the recipients of the unoccupied residential property, giving special consideration to the recipients' need for housing and capacity to make or cause to be made the repairs and improvements required under paragraph (3)(C) of this subsection;

(3) an agreement whereby the individual or family to whom such property is conveyed agrees to—

(A) occupy such property as a principal residence for a period of not less than three years;

(B) make repairs required to meet minimum health and safety standards for occupancy prior to occupying the property;

(C) make such repairs and improvements to the property as may be necessary to meet applicable local standards for decent, safe, and sanitary housing within eighteen months after occupying the property; and

(D) permit reasonable periodic inspections at reasonable times by employees of the unit of general local government or State or the public agency designated by the unit of general local government or State for the purpose of determining compliance with the agreement;

(4) the revocation of such conveyance upon any material breach of the agreement referred to in paragraph (3);

(5) the conveyance from the unit of general local government or State or the public agency designated by the unit of general local government or State of fee simple title to such property without consideration upon compliance with the agreement; and

(6) a coordinated approach toward neighborhood improvement through the homestead program and the upgrading of community services and facilities.

The Secretary may approve such other programs as he determines to reasonably fulfill these criteria.

(c) Agreements by Secretary for technical assistance

The Secretary is authorized to enter into agreements with units of general local government or States or public agencies designated by units of general local government or State to provide technical assistance for the administration of urban homestead programs which meet the requirements of subsection (b) of this section and to individuals and families who are participants in such programs.

(d) Rules and regulations

The Secretary is authorized to issue such rules and regulations as may be necessary to carry out his functions under this section.

(e) Continuing evaluation by Secretary; annual report; time for and contents of report

The Secretary shall conduct a continuing evaluation of programs carried out pursuant to this section and, beginning with the third year commencing after August 22, 1974, shall transmit to the Congress an annual report containing a summary of his evaluation of such programs and his recommendations for future conduct of such programs.

(f) List of all unoccupied one- to four-family residences owned by Secretary; request for by unit of general local government, State, or designated public agency where property located

In order to facilitate planning for purposes of this section, the Secretary shall, upon request of a unit of general local government or a State or a public agency designated by a unit of general local government or a State, provide a listing of all unoccupied one- to four-family residences to which the Secretary holds title and which are located within the geographic jurisdiction of such unit, State, or agency.

(g) Authorization of appropriations

To reimburse the housing loan funds for properties transferred pursuant to this section, and to carry out the provisions of subsection (c) of this section, there are authorized to be appropriated not to exceed $5,000,000 for the fiscal year 1975, not to exceed $6,250,000 for the fiscal year 1976, and for the transition quarter, not to exceed $5,000,000 for fiscal year 1977, and not to exceed $5.000,000 for the fiscal year 1978. Any amounts so appropriated shall remain available until expended.

(Pub. L. 93-383, title VIII, § 810, Aug. 22, 1974, 88 Stat. 734; Pub. L. 94-375, § 20, Aug. 3, 1976, 90 Stat. 1077.)

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1976—Subsec. (g). Pub. L. 94-375 substituted "not to exceed $6,250,000 for the fiscal year 1976, and for the transition quarter, not to exceed $5,000,000 for fiscal

year 1977, and not to exceed $5,000,000 for the fiscal year 1978" for "and not to exceed $5,000,000 for the fiscal year 1976".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1452b.

SUBCHAPTER II—MORTGAGE INSURANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1430, 1464, 1702, 1705, 1709-1a, 1715f, 1720, 1731a, 1735f-2, 1743, 1748b, 2803 of this title; title 29 section 773; title 42 section 3041e.

§ 1707. Definitions

As used in section 1709 of this title—

(a) The term "mortgage" means a first mortgage on real estate, in fee simple, or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed; and the term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State, in which the real estate is located, together with the credit instruments, if any, secured thereby.

(b) The term "mortgagee" includes the original lender under a mortgage, and his successors and assigns approved by the Secretary; and the term "mortgagor" includes the original borrower under a mortgage and his successors and assigns.

(c) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(d) The term "State" includes the several States, and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(June 27, 1934, ch. 847, title II, § 201, 48 Stat. 1247; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 9; Mar. 28, 1941, ch. 31, § 4(a), 55 Stat. 61; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; July 14, 1952, ch. 723, § 10(a)(2), 66 Stat. 603; June 25, 1959, Pub. L. 86-70, § 10(a), 73 Stat. 142; July 12, 1960, Pub. L. 86-624, § 6, 74 Stat. 411; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Dec. 24, 1969, Pub. L. 91-152, title IV, § 403(c)(1), 83 Stat. 395.)

AMENDMENTS

1969—Subsec. (d). Pub. L. 91-152 added "the Trust Territory of the Pacific Islands" following "Guam".

1967—Subsec. (b). Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1960—Subsec. (d). Pub. L. 86-624 eliminated "Hawaii," preceding "Puerto Rico".

1959—Subsec. (d). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii".

1952—Subsec. (d). Act July 14, 1952, inserted "Guam," after "District of Columbia".

1941—Subsec. (a). Act Mar. 28, 1941, § 4(a)(1), struck out "district, or Territory".

Subsec. (d). Act Mar. 28, 1941, § 4(a)(2), added subsec. (d).

1938—Subsec. (a). Act Feb. 3, 1938, deleted in clause (2) after "executed" words "upon which there is located a dwelling for not more than four families which is used in whole or in part for residential purposes, irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling".

Subsec. (c). Act Feb. 3, 1938, added subsec. (c).

SEPARABILITY OF PROVISIONS

Separability of act Mar. 28, 1941, see Separability of Provisions note under section 1736 of this title.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

CROSS REFERENCES

Applicability of section—

Section 1715k of this title, see section 1715k of this title.

Section 1715*l* of this title, see section 1715*l* of this title.

Section 1750 of this title, see section 1750 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706c, 1715y, 1715z-1 of this title.

§ 1708. Mutual Mortgage Insurance Fund

There is created a Mutual Mortgage Insurance Fund (hereinafter referred to as the "Fund"), which shall be used by the Secretary as a revolving fund for carrying out the provisions of this subchapter with respect to mortgages insured under section 1709 of this title as hereinafter provided, and there shall be allocated immediately to such Fund the sum of $10,000,000 out of funds made available to the Secretary for the purposes of this subchapter.

(June 27, 1934, ch. 847, title II, § 202, 48 Stat. 1248; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 9; June 3, 1939, ch. 175, § 5, 53 Stat. 805; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1939—Act June 3, 1939, substituted "created" for "create".

1938—Act Feb. 3, 1938, inserted "with respect to mortgages insured under section 1709 of this title".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

CROSS REFERENCES

Establishment of the General Insurance Fund, see section 1735c of this title.

General Surplus and Participating Reserve Accounts established in the Mutual Mortgage Insurance Fund, see section 1711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1735 of this title.

§ 1709. Insurance of mortgages

(a) Authorization

The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided,

and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) Eligibility for insurance

To be eligible for insurance under this section a mortgage shall—

(1) Have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $45,000 in the case of property upon which there is located a dwelling designated principally for a one-family residence; or $48,750 in the case of a two-family residence (whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes); or $48,750 in the case of a three-family residence; or $56,000 in the case of a four-family residence; and (except as provided in the next to the last sentence of this paragraph) not to exceed an amount equal to the sum of (i) 97 per centum (but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38 prior to the beginning of construction, 90 per centum) of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance, (ii) 90 per centum of such value in excess of $25,000 but not in excess of $35,000 and (iii) 80 per centum of such value in excess of $35,000. If the mortgagor is a veteran, and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (i) 100 per centum of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, (ii) 90 per centum of such value in excess of $25,000 but not in excess of $35,000, and (iii) 85 per centum of such value in excess of $35,000. As used herein, the term "veteran" means any person who served on active duty in the armed forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extra-hazardous service), and who was discharged or released therefrom under conditions other than dishonorable.

(3) Have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage or three-quarters of the Secretary's estimate of the remaining economic life of the building improvements, whichever is the lesser.

(4) Contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary.

(5) Bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

(6) Provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage.

(7) Contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default, reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

(8) In the case of a mortgagor who is not the occupant of the property, have a principal obligation not in excess of an amount equal to 85 per centum of the amount computed under the provisions of paragraph (2) of this subsection: *Provided*, That such 85 per centum limitation shall not be applicable if the mortgagor and mortgagee assume responsibility in a manner satisfactory to the Secretary for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof in the event the mortgaged property is not, prior to the due date of the eighteenth amortization payment of the mortgage, sold to a purchaser acceptable to the Secretary who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness.

(9) Be executed by a mortgagor who shall have paid on account of the property (except in a case to which the next to the last sentence of paragraph (2) applies) at least 3 per centum, or such larger amount as the Secretary may determine, of the Secretary's estimate of the cost of acquisition in cash or its equivalent: *Provided*, That with respect to a mortgage executed by a mortgagor who is sixty years of age or older as of the date the mortgage is endorsed for insurance or with respect to a mortgage meeting the requirements of subsection (i) of this section, or with respect to a mortgage covering a single-family home being purchased under the low-income housing demonstration project assisted pursuant to section 1436 of title 42, the mortgagor's payment required by this subsection may be paid by a corporation or person other than the mortgagor under such terms and conditions as the Secretary may prescribe.

(c) Premium charges

The Secretary is authorized to fix premium charges for the insurance of mortgages under the separate sections of this subchapter but in the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per

annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments: *Provided,* That any reduced premium charge so fixed and computed may, in the discretion of the Secretary, also be made applicable in such manner as the Secretary shall prescribe to each insured mortgage outstanding under the section or sections involved at the time the reduced premium charge is fixed. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this subchapter at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided,* That debentures presented in payment of premium charges shall represent obligations of the particular insurance fund or account to which such premium charges are to be credited: *Provided further,* That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe; but no mortgage shall be accepted for insurance under this section unless the Secretary finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance is paid in full prior to the maturity date, the Secretary is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured under this section until such maturity date; and in the event that the principal obligation is paid in full as herein set forth the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid.

(d) Repealed. Pub. L. 85–104, title I, § 106, July 12, 1957, 71 Stat. 297

(e) Contract of insurance as evidence of eligibility

Any contract of insurance heretofore or hereafter executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the loan or mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved financial institution or approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved financial institution or approved mortgagee.

(f), (g) Repealed. Aug. 2, 1954, ch. 649, title I, § 109, 68 Stat. 592

(h) Disaster housing

Notwithstanding any other provision of this section, the Secretary is authorized to insure any mortgage which involves a principal obligation not in excess of $14,400 and not in excess of 100 per centum of the appraised value of a property upon which there is located a dwelling designed principally for a single-family residence, where the mortgagor is the owner and occupant and establishes (to the satisfaction of the Secretary) that his home which he occupied as an owner or as a tenant was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm, riot or civil disorder, or other catastrophe which the President, pursuant to sections 5122(2) and 5141 of title 42, has determined to be a major disaster.

(i) Single-family housing in outlying areas

The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection, which involves a principal obligation not in excess of $16,200 and not in excess of 97 per centum (or, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38 prior to the beginning of construction, 90 per centum) of the appraised value of a property located in an area where the Secretary finds it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas, upon which there is located a dwelling designed principally for a single-family residence: *Provided,* That if the mortgagor is not the occupant of the property at the time of insurance, the principal obligation of the mortgage shall not exceed 85 per centum of the appraised value of the property: *Provided further,* That the Secretary finds that the property with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas or small communities: *Provided further,* That under the foregoing provisions of this subsection the Secretary is authorized to insure any mortgage issued with respect to a farm home on a plot of land five or more acres in size adjacent to a public highway.

(j) Real estate loans by national banks

Loans secured by mortgages insured under this section shall not be taken into account in determining the amount of real estate loans which a national bank may make in relation to its capital and surplus or its time and savings deposits.

(k) Home improvement loans; eligibility; conditions; General Insurance Fund; debentures

To supplement the mortgage insurance provisions of this section in order to assist the conservation, improvement, and alteration of hous-

ing, the Secretary is authorized to make commitments to insure and to insure a home improvement loan (including advances during construction or improvement) under this subsection in accordance with the provisions of section 1715k(h) of this title, except that (1) the structures improved shall be designed for occupancy by not more than four families and shall not be required to be located in the area of an urban renewal project, (2) the Secretary shall find that the project with respect to which the loan is executed is an acceptable risk, (3) all funds received and all disbursements made shall be credited or charged, as appropriate, to the General Insurance Fund, and (4) insurance benefits shall be paid in cash out of the General Insurance Fund, or in debentures executed in the name of such Fund. For the purposes of this subsection, the Secretary shall have all the authority provided in section 1715k(h) of this title. Insurance benefits paid with respect to loans insured under this subsection shall be paid in accordance with sections 1715k(h)(6) and 1715k(h)(7) of this title, except that as applied to those loans references in section 1715k (h) of this title to "this subsection" shall be construed to refer to this subsection. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(*l*) Repealed. Pub. L. 90–448, title I, § 103(b), Aug. 1, 1968, 82 Stat. 486

(m) Insurance of mortgages on seasonal homes

The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection. To be eligible, the mortgage shall involve a principal obligation not in excess of $18,000 and not in excess of 75 per centum of the appraised value of the property, as of the date the mortgage is accepted for insurance. The mortgage shall cover a dwelling for single-family occupancy which is approved for mortgage insurance prior to the beginning of construction. The dwelling need not be designed for year-round occupancy, but it shall (1) meet standards prescribed by the Secretary, and (2) be located in an area where the Secretary finds it is not practicable to obtain conformity with many of the requirements essential to the insuring of mortgages on housing in built-up urban areas. The development of the property with respect to which the mortgage is executed shall be consistent with the conservation of water and other natural resources of the area, and such property shall be an acceptable risk, giving consideration to the economic potential of the area in which the dwelling is located and the contribution that the housing will make toward improving the area. The Secretary may suspend the issuance of commitments under this subsection for the insurance of mortgages secured by properties situated in any area, whenever he determines that (i) there is a serious and unusual shortage of mortgage funds for residential construction in such area, (ii) such insurance would affect materially and adversely the availability of mortgage funds for residential construction in such area, and (iii) such suspension would not have an adverse impact upon the balanced economic development of the area.

(n) Cooperative housing projects; definitions

(1) The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection. To be eligible, the mortgage shall involve a dwelling unit in a cooperative housing project which is covered by a blanket mortgage insured under this chapter. The mortgage amount as determined under the other provisions of subsection (b) of this section shall be reduced by an amount equal to the portion of the unpaid balance of the blanket mortgage covering the project which is attributable (as of the date the mortgage is accepted for insurance) to such unit.

(2) For the purposes of this subsection—

(A) The terms "home mortgage" and "mortgage" include a first lien given (in accordance with the laws of the State where the property is located and accompanied by such security and other undertakings as may be required under regulations of the Secretary) to secure a loan made to finance the purchase of stock or membership in an[1] nonprofit cooperative ownership housing corporation the permanent occupancy of the dwelling units of which is restricted to members of such corporation, where the purchase of such stock or membership will entitle the purchaser to the permanent occupancy of one of such units.

(B) The terms "appraised value of the property", "value of the property", and "value" include the appraised value of a dwelling unit in a cooperative housing project of the type described in subparagraph (A) where the purchase of the stock or membership involved will entitle the purchaser to the permanent occupancy of that unit; and the term "property" includes a dwelling unit in such a cooperative project.

(C) The term "mortgagor" includes a person or persons giving a first lien (of the type described in subparagraph (A)) to secure a loan to finance the purchase of stock or membership in a cooperative housing corporation.

(June 27, 1934, ch. 847, title II, § 203, 48 Stat. 1248; May 28, 1935, ch. 150, § 29(a), 49 Stat. 299; Aug. 23, 1935, ch. 614, title III, § 344(c), 49 Stat. 722; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 10; June 3, 1939, ch. 175, §§ 6–8, 53 Stat. 805, 806; June 28, 1941, ch. 261, § 8, 55 Stat. 365; Oct. 15, 1943, ch. 259, § 2, 57 Stat. 571; July 1, 1946, ch. 531, 60 Stat. 408; Aug. 10, 1948, ch. 832, title I, § 101(g)–(k), 62 Stat. 1272; July 15, 1949, ch. 338, title II, § 201(2), 63 Stat. 421; Aug. 30, 1949, ch. 524, 63 Stat. 681; Oct. 25, 1949, ch. 729, § 1(2), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §§ 103, 104(a), 122, 64 Stat. 51, 59; June 30, 1953, ch. 170, § 3, 67 Stat. 121; Aug. 2, 1954, ch. 649, title I, §§ 104–110, 68 Stat. 591, 592; Aug. 7, 1956, ch. 1029, title I, §§ 102, 104(a), 70 Stat. 1091; July 12, 1957, Pub. L. 85–104, title I, §§ 101, 106, 71 Stat. 294, 297; Apr. 1, 1958, Pub. L. 85–364, § 1(a), 72 Stat. 73; Sept. 23, 1959, Pub. L. 86–372, title I, §§ 102, 103, title VIII, § 809, 73 Stat. 654, 688;

[1] So in original.

June 30, 1961, Pub. L. 87-70, title I, § 102(b), title VI, §§ 604(b), 605, 606, 612(a), 75 Stat. 157, 177, 178, 180; Sept. 2, 1964, Pub. L. 88-560, title I, §§ 102, 103, 105(c)(1), 78 Stat. 769, 772; Aug. 10, 1965, Pub. L. 89-117, title II, §§ 203-206, title XI, § 1108(c), 79 Stat. 466, 504; Nov. 3, 1966, Pub. L. 89-754, title III, §§ 301, 302, 80 Stat. 1266; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title I, § 103(b), title III, §§ 317, 318, title XI, § 1106(d), 82 Stat. 486, 512, 567; Dec. 24, 1969, Pub. L. 91-152, title I, §§ 102(a), 113(a), 83 Stat. 379, 383; Dec. 31, 1970, Pub. L. 91-606, title III, § 301(c), 84 Stat. 1758; May 22, 1974, Pub. L. 93-288, title VI, § 602(c), 88 Stat. 163; Aug. 22, 1974, Pub. L. 93-383, title III, §§ 302(a), 310(a), 88 Stat. 676, 682; Oct. 18, 1974, Pub. L. 93-449, § 4(b), 88 Stat. 1367.)

REFERENCES IN TEXT

Section 1436 of title 42, referred to in subsec. (b)(9), was repealed by Pub. L. 91-609, title V, § 503(4), Dec. 31, 1970, 84 Stat. 1786, and is now covered by section 1701z-1 et seq. of this title.

AMENDMENTS

1974—Subsec. (b)(2). Pub. L. 93-383, § 302(a), substituted "$45,000" for "$33,000", "$48,750" for "$35,750" wherever appearing therein, and "$56,000" for "$41,250" in provisions preceding cl. (i).

Subsec. (b)(2)(i). Pub. L. 93-383, § 310(a)(1), substituted "$25,000" for "$15,000" in the first and second sentences.

Subsec. (b)(2)(ii). Pub. L. 93-383, § 310(a)(2), substituted "$25,000" for "$15,000" and "$35,000" for "$25,000" in the first and second sentences.

Subsec. (b)(2)(iii). Pub. L. 93-383, § 310(a)(3), substituted "$35,000" for "$25,000" in the first and second sentences.

Subsec. (h). Pub. L. 93-288 substituted "sections 5122(2) and 5141 of title 42" for "section 4402(1) of title 42".

Subsec. (n). Pub. L. 93-449 added subsec. (n).

1970—Subsec. (h). Pub. L. 91-606 substituted reference to section "4402(1)" for "1855a(a)" of title 42.

1969—Subsec. (b)(2). Pub. L. 91-152, §§ 102(a), 113(a)(1), substituted "$25,000" for "$20,000" wherever appearing therein, "$33,000" for "$30,000", "$35,750" for "$32,500" wherever appearing therein, and "$41,250" for "$37,500".

Subsec. (h). Pub. L. 91-152, § 113(a)(2), substituted "$14,400" for "$12,000".

Subsec. (i). Pub. L. 91-152, § 113(a)(3), substituted "$16,200" for "$13,500".

Subsec. (m). Pub. L. 91-152, § 113(a)(4), substituted "$18,000" for "$15,000".

1968—Subsec. (h). Pub. L. 90-448, § 1106(d), authorized insurance of mortgages for reconstruction of homes destroyed or damaged as a result of riot or civil disorder.

Subsec. (i). Pub. L. 90-448, § 317, substituted "$13,500" for "$12,500".

Subsec. (*l*). Pub. L. 90-448, § 103(b), repealed subsec. (*l*) which authorized insurance of mortgages in areas affected by civil disorders, and is now covered by section 1715n(e) of this title.

Subsec. (m). Pub. L. 90-448, § 318, added subsec. (m).

1967—Pub. L. 90—19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b)(1) to (9), (c), (e), (h), (i), and (k) of this section.

Subsecs. (b)(3), (9). Pub. L. 90—19, § 1(a)(4), substituted "Secretary's" for "Commissioner's".

1966—Subsec. (b)(2). Pub. L. 89-754, § 301, substituted "If the mortgagor is a veteran," for "If the mortgagor is a veteran who has not received any direct, guaranteed, or insured loan under laws administered by the Veterans' Administration for the purchase, construction, or repair of a dwelling (including a farm dwelling) which was to be owned and occupied by him as his home,".

Subsec. (*l*). Pub. L. 89-754, § 302, added subsec. (*l*).

1965—Subsec. (b)(2). Pub. L. 89-117, §§ 203, 206(a), substituted "and (except as provided in the next to the last sentence of this paragraph) not to exceed" for "and not to exceed", and "80 per centum" for "75 per centum", and added provisions prescribing the amount of the principal obligation for veterans and defining "veteran".

Subsec. (b)(9). Pub. L. 89-117, §§ 204, 206(b), inserted "(except in a case to which the next to the last sentence of paragraph (2) applies)" and "or with respect to a mortgage covering a single-family home being purchased under the low-income housing demonstration project assisted pursuant to section 1436 of title 42".

Subsec. (i). Pub. L. 89-117, § 205, substituted "$12,500" for "$11,000".

Subsec. (k). Pub. L. 89-117, § 1108(c), substituted "the General Insurance Fund" for "a separate section 203 Home Improvement Account to be maintained as hereinafter provided under the Mutual Mortgage Insurance Fund" in clause (3) of the first sentence and "the General Insurance Fund or in debentures executed in the name of such Fund" for "the section 203 Home Improvement Account or in debentures executed in the name of such Account" in clause (4), and removed references to section 220 Housing Insurance Fund and section 203 Home Improvement Account elsewhere in the subsec., including provisions for the funding of a special revolving fund for carrying out the provisions of the subsec.

1964—Subsec. (b)(2). Pub. L. 88-560, § 102(a), increased the maximum amount of the principal obligation for one-family residences from $25,000 to $30,000, for two-family residences from $27,500 to $32,500, for three-family residences from $27,500 to $32,500, and for four-family residences from $35,000 to $37,500.

Subsec. (i). Pub. L. 88-560, § 102(b), increased the maximum amount of the principal obligation from $9,000 to $11,000.

Subsec. (k). Pub. L. 88-560, §§ 103, 105(c)(1), substituted in clause (2) "an acceptable risk" for "economically sound", in clause (4) provision for payment of insurance benefits "in cash out of the Section 203 Home Improvement Account or in debentures executed in the name of such Account" for provision for such payment "in debentures executed in the name of the Section 203 Home Improvement Account", and in the third sentence "Insurance benefits paid with respect to loans insured under this subsection shall be paid" for "Debentures issued with respect to loans insured under this subsection shall be issued"; and added the provision that "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner.", respectively.

1961—Subsec. (a). Pub. L. 87-70, § 604(b), eliminated proviso which limited the aggregate amount of principal obligations of all mortgages insured under this chapter to not more than $7,750,000,000, and which permitted additional increases in such sum by not more than $1,250,000,000 in the aggregate.

Subsec. (b)(2). Pub. L. 87-70, § 605(a), (b), increased the maximum amount of the principal obligation for one-family residences from $22,500 to $25,000, and for two-family residences from $25,000 to $27,500, and substituted "$15,000" for "$13,500" in two instances, "$20,000" for "$18,000" in two instances, and "75 per centum" for "70 per centum".

Subsec. (b)(3). Pub. L. 87-70, §§ 605(c), 612(a)(1), substituted "thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage" for "thirty years from the date of the insurance of the mortgage".

Subsec. (c). Pub. L. 87-70, §§ 606, 612(a)(2), reduced the minimum premium charge from an amount equiv-

alent to one-half of 1 per centum per annum to an amount equivalent to one-fourth of 1 per centum per annum, permitted the Commissioner to make the reduced premium charge applicable to each insured mortgage outstanding under the section or sections involved at the time the reduced charge is fixed, eliminated provisos which related to premium charges for mortgages insured prior to Feb. 3, 1938, and for mortgages described in section 203(b)(2)(B) of the National Housing Act accepted for insurance prior to July 1, 1939, and substituted "particular insurance fund or account" for "particular insurance fund" in the first proviso of the second sentence.

Subsec. (e). Pub. L. 87-70, § 102(b)(1), (2), substituted "eligibility of the loan or mortgage" for "eligibility of the mortgage", and "approved financial institution or approved mortgagee" for "approved mortgagee" in two instances.

Subsec. (k). Pub. L. 87-70 § 102(b)(3), added subsec. (k).

1959—Subsec. (b)(2). Pub. L. 86-372, § 102(a), increased the maximum amount of the principal obligation for one-family residences from $20,000 to $22,500, and for two-family residences from $20,000 to $25,000, increased the maximum amount of loans over $13,500 from 85 percent of the value in excess of $13,500 but not in excess of $16,000 to 90 percent of the value in excess of $13,500 but not in excess of $18,000, and inserted provisions relating to dwellings approved for guaranty, insurance, or direct loan under chapter 37 of Title 38 prior to the beginning of construction.

Subsec. (b)(8). Pub. L. 86-372, § 102(b), inserted proviso making the 85 per centum limitation inapplicable if the mortgagor and mortgagee assume responsibility for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof in the event the mortgaged property is not, prior to the due date of the 18th amortization payment of the mortgage, sold to a purchaser acceptable to the Commissioner who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness.

Subsec. (i). Pub. L. 86-372, § 103, increased the maximum amount of the principal obligation from $8,000 to $9,000, inserted parenthetical clause, and eliminated provisions that limited the total amount of insurance outstanding at any one time for farm homes to not more than $100,000,000.

Subsec. (j). Pub. L. 86-372, § 809, added subsec. (j).

1958—Subsec. (b)(2). Pub. L. 85-364 substituted "$13,500" for "$10,000" in two instances.

1957—Subsec. (b)(2). Pub. L. 85-104, § 101(a), increased maximum amount of loan from 95 percent of the first $9,000 plus 75 percent of excess above $9,000, to 97 percent of the first $10,000 plus 85 percent of the next $6,000 and 70 percent of the remainder, and eliminated provisions authorizing President to increase former $9,000 figure to $10,000, eliminated provision that principal of mortgage shall not exceed 85 percent if mortgagor is not occupant of property, and eliminated provision that mortgagor shall have paid at least 5 percent cash payment. See subsec. (b)(8), (9).

Subsecs. (b)(8), (9). Pub. L. 85-104, § 101(b), added pars. (8) and (9).

Subsec. (d). Pub. L. 85-104, § 106, repealed provisions which related to insurance of mortgages on farm properties.

Subsec. (i). Pub. L. 85-104, § 101(c), amended provisions generally, and, among other changes, increased maximum loan from $6,650 to $8,000, and from 95 percent to 97 percent of value, and substituted provisions that mortgage obligation shall not exceed 85 percent of value if mortgagor is not occupant, for provisions that (1) mortgagor be the owner and occupant and had paid at least 5 percent cash, or (2) mortgagor be owner and occupant with whom a person or corporation having satisfactory credit standing had contracted to pay on his behalf all or part of downpayment, taking as security a note at not more than 4 percent interest, and to guarantee payment of insured mortgage, or (3) to be the builder constructing the dwelling in which case principal should not exceed 85 percent of value or $5,950.

1956—Subsec. (b)(2). Act Aug. 7, 1956, §§ 102(a) and 104(a), inserted the words "unless the construction of the dwelling was completed more than one year prior to the application for morrtgage insurance" preceding "90 per centum" in the parenthetical clause, and added provision that in cases where mortgagor is a person 60 years of age or older, the downpayment required could be paid by a person other than the mortgagor under conditions prescribed by the Commissioner.

Subsec. (h). Act Aug. 7, 1956, § 102(b), substituted "$12,000" for "$7,000".

1954—Subsec. (b)(2). Act Aug. 2, 1954, § 104, generally amended provisions to provide, among others, for an increase in, and equalization of, maximum mortgage amounts, with respect to new housing, substitution of a loan to value ratio of 95 per cent of the $9,000 of value plus 75 per cent of the balance in excess of $9,000, with Presidential authority to increase the $9,000 figure to $10,000 under certain conditions, and with respect to existing housing, substitution of a loan to value ratio of 90 per cent of the first $9,000 of value plus 75 per cent of the balance in excess of $9,000, with Presidential authority to increase the $9,000 figure to $10,000, and added a provision limiting the maximum loan to value ratio where the builder becomes the mortgagor, not to exceed 85 per cent of the mortgage loan which an owner-occupant could obtain.

Subsec. (b)(3). Act Aug. 2, 1954, § 105, substituted a provision for a maximum maturity of 30 years or three-quarters of the Commissioner's estimate of the remaining economic life of the building improvements, whichever is the lesser, for former provision carrying varying limits ranging from twenty to thirty years.

Subsec. (b)(5). Act Aug. 2, 1954, § 106, fixed the maximum statutory interest rate on mortgages at 5 per cent with authority in the Commissioner to increase the rate to not to exceed 6 per cent as he finds it necessary to meet the mortgage market; and permitted the allowance of service charges.

Subsec. (c). Act Aug. 2, 1954, § 107, provided that debentures presented in payment of premium charges shall represent obligations of the particular insurance fund to which such premium charges are to be credited.

Subsec. (d). Act Aug. 2, 1954, § 108, prohibited the insurance of mortgages pursuant to this subsection after Aug. 2, 1954, except pursuant to commitments to insure issued on or before such date.

Subsecs. (f), (g). Act Aug. 2, 1954, § 109, repealed subsec. (f) which related to refinance mortgages and subsec. (g) which related to higher loan to value ratio and longer maturity for single-family residences. See subsecs. (b)(2) and (b)(3) of this section.

Subsecs. (h), (i). Act Aug. 2, 1954, § 110, added subsecs. (h) and (i).

1953—Subsec. (g). Act June 30, 1953, added subsec. (g).

1950—Subsec. (a). Act Apr. 20, 1950, § 103, increased the statutory amount of insurance authority from $6,750,000,000 to $7,500,000,000 and provided that an additional $1,250,000,000 in insurance authority could be made available with the authority of the President.

Subsec. (b)(2). Act Apr. 20, 1950, § 104(a), added proviso to clause (A) to allow the Commissioner to increase the dollar limitation by not exceeding $4,500 for each additional family dwelling unit, in excess of two located on such property, repealed clause (B), changed "$9,500" to read "$9,450", "90" to "95" in clause (C), and changed clause (D) to provide that an insured mortgage could not exceed $6,650 in amount and not exceed 95% of the appraised value, except that the Commissioner is given discretionary authority to increase such dollar amount limitation by not exceeding $950 for each additional bedroom in excess of two, and also to give Commissioner authority to increase the insurance limitation in any geographical area where he finds that cost levels so require.

1949—Subsec. (a). Joint Res. Oct. 25, 1949, substituted "$6,000,000,000" for "$5,500,000,000", and "$6,750,000,000" for "$6,000,000,000".

Act Aug. 30, 1949 substituted "$5,500,000,000" for "$5,300,000,000" and "$6,000,000,000" for "$5,500,000,000".

Act July 15, 1949, substituted "$5,300,000,000" for "$4,000,000,000" and "$5,500,000,000" for "$5,000,000,000".

1948—Subsec. (b)(2). Act Aug. 10, 1948 § 101(g), (h)(1) to (3), (j)(1), substituted "$6,300" for "$5,400" in subpar. (B), substituted "$9,500" for "$8,600", "$7,000" for "$6,000", and "$11,000" for "$10,000" in subpar. (C), and added subpar. (D).

Subsec. (b)(3). Act Aug. 10, 1948, § 101(i), (j)(2), substituted "on property approved for insurance prior to the beginning of construction" for "of the character described in paragraph (2)(B) of this subsection" and added "or not to exceed thirty years in the case of a mortgage insured under paragraph (2)(D) of this subsection", at the end thereof.

Subsec. (b)(5). Act Aug. 10, 1948, § 101(j)(3), added "or not to exceed 4 per centum per annum in the case of a mortgage insured under paragraph (2)(D) of this subsection, or not to exceed such percentum per annum, not in excess of 5 per centum, as the Administrator finds necessary to meet the mortgage market" at the end thereof.

Subsec. (c). Act Aug. 10, 1948, § 101(k)(1), (2) struck out of last sentence "under this section or section 1715a of this title" following "accepted for insurance" and "and a mortgage on the same property is accepted for insurance at the time of such payment" following "herein set forth".

1946—Subsec. (a). Act July 1, 1946, struck out the second and third provisos providing for a limitation on the aggregate amount of mortgages outstanding, and limiting insuring of mortgages after July 1, 1946, respectively.

1943—Subsec. (a). Act Oct. 15, 1943, substituted "1946" for "1944" in former third proviso.

1941—Subsec. (a). Act June 28, 1941, substituted "$4,000,000,000" for "$3,000,000,000", "$5,000,000,000" for "$4,000,000,000"; and affected former second and third provisos.

1939—Subsec. (a). Act June 3, 1939, § 6, substituted "$3,000,000" for "$2,000,000", "$4,000,000" for "$3,000,000", generally revised the second proviso and added a third.

Subsec. (b). Act June 3, 1939, § 7, struck out from par. (3) words "until July 1, 1939".

Subsecs. (e), (f). Act June 3, 1939, § 8, added subsecs. (e) and (f).

1938—Subsecs. (a) to (d). Act Feb. 3, 1938, amended provisions generally.

1935—Subsec. (a). Act Aug. 23, 1935, inserted "property and" before "project" in clause (1).

Subsec. (c). Act May 28, 1935, added part of last sentence preceding the semicolon.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of subsec. (a) of this section by act July 15, 1949, was made effective as of June 30, 1949, by section 202 of act July 15, 1949.

EFFECT OF REPEAL OF CLAUSE (B) OF THIS SECTION

Section 104(b) of act Apr. 20, 1950, provided that: "The repeal of section 203(b)(2)(B) of said Act, as provided by subsection (a) of this section [former Clause B of subsection (b)(2) of this section], shall not affect the right of the Commissioner to insure under said section any mortgage (1) for the insurance of which application has been filed prior to the effective date of this Act [Apr. 20, 1950], or (2) with respect to a property covered by a mortgage insured under any section of the National Housing Act, as amended [this chapter]."

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by section 122 of act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

INSURANCE PROGRAM FOR HOMEOWNERS TO MEET MORTGAGE PAYMENTS IN TIMES OF PERSONAL ECONOMIC ADVERSITY

Pub. L. 90-448, § 109, authorized the Secretary of Housing and Urban Development to develop a plan of insurance to help homeowners meet mortgage payments in times of personal economic adversity, i.e., death, disability, illness, and unemployment; required the program to be actuarially sound through the use of premiums, fees, extended or increased payment schedules, or other similar methods in conjunction with federal participation as necessary; directed the Secretary to report to Congress within 6 months of Aug. 1, 1968 and to recommend legislation, authorizing him to contract with companies, corporations, or joint enterprises formed to provide home mortgage insurance protection for the purpose of reinsuring insurance reserve funds, subsidizing premium payments for lower income mortgagors, or otherwise making possible insurance protection of homeowners; and authorized the Secretary, in preparing his recommendations, to consult with other agencies or instrumentalities of the United States which insure or guarantee home mortgages in order that any recommended legislation afford equal benefits to mortgagors participating in their programs.

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (b)(5) of this section, see section 1709-1 of this title.

CROSS REFERENCES

Reference to this section—

Construed to refer to section 1706c of this title, see section 1706c of this title.

Construed to refer to section 1715k of this title, see section 1715k of this title.

Construed to refer to section 1715*l* of this title, see section 1715*l* of this title.

Construed to refer to section 1715m of this title, see section 1715m of this title.

Construed to refer to section 1748h-1 of this title, see section 1748h-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 1706c, 1707, 1708, 1709-1, 1710, 1711, 1712, 1713, 1715e, 1715k, 1715*l*, 1715m, 1715n, 1715q, 1715x, 1715w, 1715y, 1715z-2, 1715z-3, 1723e, 1735, 1735b, 1735c, 1748h-1, 1748h-2, 1750b, 1796, 2703 of this title; title 15 section 77d; title 38 section 1803; title 42 sections 1485, 1487.

§ 1709-1. Maximum interest rates for certain programs; expiration date; guaranteed or insured home loans to veterans; mobile home loans

Notwithstanding the provisions of sections 1709(b)(5), 1713(c)(3), 1715e(d), 1715k(d)(4), 1715k(h)(2)(iii), 1715*l*(d)(5), 1715v(c)(6), 1715w(d)(3)(B), 1715y(f), 1715z(j)(2)(C), 1715z-1(j)(4)(B), 1715z-5(c)(4), 1715z-6(b)(3), 1715z-7(d)(3)(B), and 1749aaa(c)(4) of this title regarding the maximum interest rates which the Secretary of Housing and Urban Development may establish for certain mortgage insurance programs authorized by this chapter, the Secretary is authorized, until June 30, 1977, to set

the maximum interest rates for such programs at not to exceed such per centum per annum on the amount of the principal obligation outstanding at any time as he finds necessary to meet the mortgage market, and during that time the interest rates so set shall be deemed to be for all purposes the interest rates in effect under the provisions of said section 1709(b)(5) and the other sections referred to above: *Provided,* That in determining the rate to be applicable for the said section 1709(b)(5) program, the Secretary shall consult with the Administrator of Veterans' Affairs regarding the rate which the Administrator considers necessary to meet the mortgage market for guaranteed or insured home loans to veterans under chapter 37 of title 38. Notwithstanding the provisions of section 1703(b) of this title regarding the maximum interest rate which may be established for obligations with respect to which insurance is granted to financial institutions under section 1703 of this title, the Secretary of Housing and Urban Development is also authorized, until the date specified in the preceding sentence, to set the maximum interest rate for obligations with respect to which insurance is granted under such section at such level as he finds necessary to meet the loan market.

(Pub. L. 90-301, § 3(a), May 7, 1968, 82 Stat. 113; Pub. L. 90-448, title III, § 315, Aug. 1, 1968, 82 Stat. 512; Pub. L. 91-78, § 3, Sept. 30, 1969, 83 Stat. 125; Pub. L. 91-152, title IV, § 401, Dec. 24, 1969, 83 Stat. 394; Pub. L. 91-351, title VI, § 601, July 24, 1970, 84 Stat. 461; Pub. L. 92-213, § 1, Dec. 22, 1971, 85 Stat. 775; Pub. L. 92-335, § 1, July 1, 1972, 86 Stat. 405; Pub. L. 93-85, § 2, Aug. 10, 1973, 87 Stat. 220; Pub. L. 93-117, § 3, Oct. 2, 1973, 87 Stat. 422; Pub. L. 93-234, title II, § 208, Dec. 31, 1973, 87 Stat. 984; Pub. L. 93-383, title III, §§ 309(e), 317, Aug. 22, 1974, 88 Stat. 682, 685.)

AMENDMENTS

1974—Pub. L. 93-383 struck out applicability to loans and advances of credit made for the purpose of financing purchases of mobile homes with respect to flexible interest rates for mobile home loans and substituted "June 30, 1977" for "October 1, 1974".

1973—Pub. L. 93-234 authorized flexible interest rate for mobile home loans.

Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Pub. L. 92-335 substituted "June 30, 1973" for "June 30, 1972".

1971—Pub. L. 92-213 substituted "June 30, 1972" for "January 1, 1972".

1970—Pub. L. 91-351 substituted "January 1, 1972" for "October 1, 1970".

1969—Pub. L. 91-152 substituted "October 1, 1970" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

1968—Pub. L. 90-448 inserted references to section 1715z(j)(2)(C), 1715z-1(j)(4)(B), 1715z-5(c)(4), 1715z-6(b)(3), and 1715z-7(d)(3)(B) of this title.

MORTGAGE CREDIT INTEREST RATES

Section 4 of Pub. L. 90-301, as amended by Pub. L. 90-565, Oct. 12, 1968, 82 Stat. 1001; Pub. L. 91-9, Apr. 11, 1969, 83 Stat. 7; Pub. L. 91-38, July 1, 1969, 83 Stat. 43, established a commission to study mortgage interest rates and to make recommendations to assure the availability of an adequate supply of mortgage credit at a reasonable cost to the consumer. The Commission was directed to make an interim report not later than July 1, 1969, and a final report of its study and recommendations not later than August 1, 1969, to enable the President, Congress, and the Secretary of Housing and Urban Development to take necessary action before October 1, 1969, when the authorization for the increase in interest rates above present statutory ceilings will expire. The Commission ceased to exist sixty days after the submission of its final report.

AVAILABILITY OF FUNDS FOR EXPENSES OF COMMISSION ON MORTGAGE INTEREST RATES

Section 1604 of Pub. L. 90-448 provided that funds appropriated and available for studies of housing markets and credit as authorized by section 301 of the Housing Act of 1948 [former section 1701e of this title] and section 602(a) of the Housing Act of 1956 [former section 1701d-3 of this title] were to be available for expenses of the Commission established by section 4(b) of Public Law 90-301, including the report required to be rendered by such Commission.

§ 1709-1a. State constitutional and legal limits upon interest chargeable on loans, mortgages, or other interim financing arrangements; applicability; covered arrangements

(a) The provisions of the constitution of any State expressly limiting the amount of interest which may be charged, taken, received, or reserved by certain classes of lenders and the provisions of any law of that State expressly limiting the amount of interest which may be charged, taken, received, or reserved shall not apply to—

(1) any loan or mortgage which is secured by a one- to four-family dwelling and which is (A) insured under title I [12 U.S.C. 1702 et seq.] or II [12 U.S.C. 1707 et seq.] of the National Housing Act, or (B) insured, guaranteed, or made under chapter 37 of title 38; or

(2) any temporary construction loan or other interim financing if at the time such loan is made or financing is arranged, the intention to obtain permanent financing substantially by means of loans or mortgages so insured, guaranteed, or made is declared.

(b) The provisions of this section shall apply to such loans, mortgages, or other interim financing made or executed in any State until the effective date (after June 30, 1976) of a provision of law of that State limiting the amount of interest which may be charged, taken, received, or reserved on such loans, mortgages, or financing.

(Pub. L. 94-324, § 8, June 30, 1976, 90 Stat. 722.)

CODIFICATION

Section was enacted as part of the Veterans Housing Amendments Act of 1976, and not as part of the National Housing Act which comprises this chapter.

EFFECTIVE DATE

Section effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 1801 of Title 38, Veterans' Benefits.

§ 1709-2. Equity skimming; penalty; persons liable; one dwelling exemption

Whoever, with intent to defraud, willfully engages in a pattern or practice of—

(1) purchasing one- to four-family dwellings which are subject to a loan in default at time of purchase or in default within one year sub-

sequent to the purchase and the loan is secured by a mortgage or deed of trust insured or held by the Secretary of Housing and Urban Development or guaranteed by the Veterans' Administration, or the loan is made by the Veterans' Administration,

(2) failing to make payments under the mortgage or deed of trust as the payments become due, and

(3) applying or authorizing the application of rents from such dwellings for his own use,

shall be fined not more than $5,000 or imprisoned not more than three years, or both. This section shall apply to a purchaser of such a dwelling, or a beneficial owner under any business organization or trust purchasing such dwelling, or to an officer, director, or agent of any such purchaser. Nothing in this section shall apply to the purchaser of only one such dwelling.

(Pub. L. 91-609, title IX, § 912, Dec. 31, 1970, 84 Stat. 1814.)

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1970, and not as a part of the National Housing Act which comprises this chapter.

§ 1709a. Determination of loan-to-value ratios

The Secretary of Housing and Urban Development, in establishing maximum loan-to-value ratios for mortgages insured by him under the National Housing Act [12 U.S.C. 1701 et seq.], as amended by sections 101, 102, and 103 of this Act, shall determine that such ratios are in the public interest after taking into consideration (1) the effect of such ratios on the national economy and on conditions in the building industry, and (2) the availability or unavailability of residential mortgage credit assisted under the Servicemen's Readjustment Act of 1944, as amended.

(Pub. L. 85-104, title I, § 104, July 12, 1957, 71 Stat. 296; Pub. L. 90-19, § 14(a), May 25, 1967, 81 Stat. 24.)

REFERENCES IN TEXT

Amendments by sections 101, 102, and 103 of this act refers to amendment of sections 1709(b), (i), 1715k(d)(3), and 1715m(b) of this title by Pub. L. 85-104.

Servicemen's Readjustment Act of 1944, as amended, referred to in text, was act June 22, 1944, ch. 268, 58 Stat. 284, which was repealed by Pub. L. 85-857, § 14(87), Sept. 2, 1958, 72 Stat. 1273, and is now covered by chapter 37 (§ 1801 et seq.) of Title 38, Veterans Benefits.

CODIFICATION

Section was enacted as a part of the Housing Act of 1957, and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

§ 1709b. Repealed. Pub. L. 85-364, § 6, Apr. 1, 1958, 72 Stat. 77

Section, Pub. L. 85-104, title VI, § 605, July 12, 1957, 71 Stat. 305, authorized the Federal Housing Commissioner and the Administrator of Veterans' Affairs to fix reasonable limits on charges, fees, and discounts imposed upon builders, sellers, or purchasers.

§ 1710. Payment of insurance

(a) Conveyance and assignment by mortgagee; debentures and certificates of claim; cost of foreclosure; direct conveyances

In any case in which the mortgagee under a mortgage insured under section 1709 of this title shall have foreclosed and taken possession of the mortgaged property in accordance with regulations of, and within a period to be determined by the Secretary, or shall, with the consent of the Secretary, have otherwise acquired such property from the mortgagor after default, the mortgagee shall be entitled to receive the benefit of the insurance as hereinafter provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of rules and regulations of the Secretary in force at the time the mortgage was insured, and which is evidenced in the manner prescribed by such rules and regulations, and (2) the assignment to him of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary. Upon such conveyance and assignment the obligation of the mortgagee to pay the premium charges for insurance shall cease and the Secretary shall, subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value equal to the value of the mortgage and (subject to subsection (e)(2) of this section) a certificate of claim, as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined, in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after default other than by foreclosure the amount of all payments which have been made by the mortgagee for taxes, ground rents, and water rates, which are liens prior to the mortgage, special assessments which are noted on the application for insurance or which become liens after the insurance of the mortgage, charges for the administration, operation, maintenance and repair of community-owned property or the maintenance and repair of the mortgaged property, the obligation for which arises out of a covenant filed for record and approved by the Secretary prior to the insurance of the mortgage, insurance on the mortgaged property, and any mortgage insurance premiums, and any tax imposed by the United States upon any deed or other instrument by which said property was acquired by the mortgagee and transferred or conveyed to the Secretary and by deducting from such total amount any amount received on account of the mortgage after either of such dates, and any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates: *Provided,* That with respect to mortgages which are accepted for in-

surance under section 203(b)(2)(B) of this Act, and which are foreclosed before there shall have been paid on account of the principal obligation of the mortgage a sum equal to 10 per centum of the appraised value of the property as of the date the mortgage was accepted for insurance, there may be included in the debentures issued by the Secretary, on account of foreclosure costs actually paid by the mortgagee and approved by the Secretary an amount not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings, but in no event in excess of $75: *And provided further,* That with respect to mortgages which are accepted for insurance under section 203(b)(2)(D) of this Act or under the second proviso of section 1713(c)(2) of this title, or under section 1715e of this title, or with respect to any mortgage accepted for insurance under section 1709 of this title on or after August 2, 1954, there may be included in the debentures issued by the Secretary on account of the cost of foreclosure (or of acquiring the property by other means) actually paid by the mortgagee and approved by the Secretary an amount, not in excess of two-thirds of such cost or $75 whichever is the greater: *And provided further,* That with respect to a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964, the Secretary may include in debentures or in the cash payment an amount not to exceed the foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Secretary: *And provided further,* That with respect to a mortgage accepted for insurance pursuant to a commitment issued prior to September 2, 1964, the Secretary may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e) of this section), include in debentures or in the cash payment, in addition to amounts otherwise allowed for such costs, an amount not to exceed one-third of the total foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Secretary, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee: *And provided further,* That with respect to mortgages to which the provisions of sections 532 and 536 of the Appendix to title 50 apply, and which are insured under section 1709 of this title, and subject to such regulations and conditions as the Secretary may prescribe, there shall be included in the debentures an amount which the Secretary finds to be sufficient to compensate the mortgagee for any loss which it may have sustained on account of interest on debentures by reason of its having postponed the institution of foreclosure proceedings or the acquisition of the property by other means during any part or all of the period of such military service and three months thereafter: *And provided further,* That where the claim is paid in cash there shall be included in the cash payment an amount equivalent to the compensation for loss of debenture interest that would be included in computing debentures if such claim were being paid in debentures: *And provided further,* That with respect to any mortgage covering a one-, two-, three-, or four-family residence insured under this chapter, if the Secretary finds, after notice of default, that the default was due to circumstances beyond the control of the mortgagor, he may, upon such terms and conditions as he may prescribe, (1) approve the request of the mortgagee for an extension of the time for the curing of the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property to such time as the Secretary may determine is necessary and desirable to enable the mortgagor to complete the mortgage payments, including an extension of time beyond the stated maturity of the mortgage, and in the event of a subsequent foreclosure or acquisition of the property by other means the Secretary is authorized to include in the debentures an amount equal to any unpaid mortgage interest, or (2) approve a modification of the terms of the mortgage for the purpose of changing the amortization provisions by recasting, over the remaining term of the mortgage or over such longer period as may be approved by the Secretary, the total unpaid amount then due, as determined by the Secretary, with the modification to become effective currently or to become effective upon the termination of an agreed-upon extension of the period for curing the default; and the principal amount of the mortgage, as modified, shall be considered to be the "original principal obligation of the mortgage" as that term is used in this chapter for the purpose of computing the total face value of the debentures to be issued or the cash payment to be made by the Secretary to a mortgagee: *And provided further,* That, notwithstanding any requirement contained in this chapter that debentures may be issued only upon acquisition of title and possession by the mortgagee and its subsequent conveyance and transfer to the Secretary, and for the purpose of avoiding unnecessary conveyance expense in connection with payment of insurance benefits under the provisions of this chapter, the Secretary is authorized, subject to such rules and regulations as he may prescribe, to permit the mortgagee to tender to the Secretary a satisfactory conveyance of title and transfer of possession direct from the mortgagor or other appropriate grantor and to pay the insurance benefits to the mortgagee which it would otherwise be entitled to if such conveyance had been made to the mortgagee and from the mortgagee to the Secretary.

(b) Consent to release of mortgagor or property

The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(c) Debentures; form and denomination

Debentures issued under this section shall be in such form and denominations in multiples of $50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the value

of the mortgage determined as herein provided and the aggregate face value of the debentures issued, not to exceed $350, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the Mutual Mortgage Insurance Fund.

(d) Debentures; execution; negotiability; terms; tax exemptions

The debentures issued under this section to any mortagee[1] with respect to mortgages insured under section 1709 of this title shall be executed in the name of the Mutual Mortgage Insurance Fund as obligor, shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable. All such debentures shall be dated as of the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default: *Provided,* That debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Secretary, in his discretion, may establish by regulation. The debentures shall bear interest from such date at a rate established by the Secretary pursuant to section 1715*o* of this title, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for property covered by mortgages insured under section 1709 or section 1713 of this title prior to February 3, 1938 shall be subject only to such Federal, State, and local taxes as the mortgages in exchange for which they are issued would be subject to in the hands of the holder of the debentures and shall be a liability of the Mutual Mortgage Insurance Fund, but such debentures shall be fully and unconditionally guaranteed as to principal and interest by the United States; but any mortgagee entitled to receive any such debentures may elect to receive in lieu thereof a cash adjustment and debentures issued as hereinafter provided and bearing the current rate of interest. Such debentures as are issued in exchange for property covered by the mortgages insured after February 3, 1938, shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; and such debentures shall be paid out of the Mutual Mortgage Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and such guaranty shall be expressed on the face of the debentures. In the event that the Mutual Mortgage Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this section, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

[1] So in original. Probably should read "mortgagee".

(e) Certificate of claim

(1) Subject to paragraph (2), the certificate of claim issued by the Secretary to any mortgagee shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, at the time of the conveyance to the Secretary of the property covered by the mortgage, the mortgagor had redeemed the property and paid in full all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. The amount to which the holder of any such certificate shall be entitled shall be determined as provided in subsection (f) of this section.

(2) A certificate of claim shall not be issued and the provisions of paragraph (1) of this subsection shall not be applicable in the case of a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964.

(f) Division of excess proceeds; settlement of certificates of claims and refunds to mortgagors

(1) If, after deducting (in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Secretary, the net amount realized from any property conveyed to the Secretary under this section and the claims assigned therewith exceed the face value of the debentures issued and the cash paid in exchange for such property plus all interest paid on such debentures, such excess shall be divided as follows:

(i) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be paid to the mortgagor of such property if the mortgage was insured under section 1709 of this title: *Provided,* That on and after September 2, 1964, any excess remaining after payment to the holder of the full amount of the certificate of claim, together with the accrued interest increment thereon, shall be retained by the Secretary and credited to the applicable insurance fund; and

(ii) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(2) Notwithstanding any other provisions of this section, the Secretary is autnorized, with respect to mortgages insured pursuant to commitments for insurance issued after August 11, 1955, and, with the consent of the mortgagee or mortgagor, as the case may be, with respect to

mortgages insured pursuant to commitments issued prior to such date, to effect the settlement of certificates of claim and refunds to mortgagors at any time after the sale or transfer of title to the property conveyed to the Secretary under this section and without awaiting the final liquidation of such property for the purpose of determining the net amount to be realized therefrom: *Provided,* That the settlement authority created by the Housing Amendments of 1955 shall be terminated with respect to any certificates of claim outstanding as of September 2, 1964.

(3) With the consent of the holder thereof, the Secretary is authorized, without awaiting the final liquidation of the Secretary's interest in the property, to settle any certificate of claim issued pursuant to subsection (e) of this section, with respect to which settlement had not been effected prior to September 2, 1964, by making payment in cash to the holder thereof of such amount not exceeding the face amount of the certificate of claim, together with the accrued interest thereon, as the Secretary may consider appropriate: *Provided,* That in any case where the certificate of claim is settled in accordance with the provisions of this paragraph, any amounts realized after September 2, 1964, in the liquidation of the Secretary's interest in the property, shall be retained by the Secretary and credited to the applicable insurance fund.

(g) Handling and disposal of property; settlement of claims

Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary shall have power to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, any properties conveyed to him in exchange for debentures and certificates of claim as provided in this section; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary as provided in this section: *Provided,* That section 5 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000. The power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this chapter, may be exercised by an officer appointed by him, without the execution of any express delegation of power or power of attorney: *Provided,* That nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer, agent, or employee he may appoint: *And provided further,* That a conveyance or transfer of title to real or personal property or an interest therein to the Secretary of Housing and Urban Development, his successors and assigns, without identifying the Secretary therein, shall be deemed a proper conveyance or transfer to the same extent and of like effect as if the Secretary were personally named in such conveyance or transfer.

(h) Mortgagor's or mortgagee's interest in property or claim conveyed

No mortgagee or mortgagor shall have, and no certificate of claim shall be construed to give to any mortgagee or mortgagor, any right or interest in any property conveyed to the Secretary or in any claim assigned to him; nor shall the Secretary owe any duty to any mortgagee or mortgagor with respect to the handling or disposal of any such property or the collection of any such claim.

(j)[1] Foreclosure; payment and cessation of obligation

In the event that any mortgagee under a mortgage insured under section 1709 of this title forecloses on the mortgaged property but does not convey such property to the Secretary in accordance with this section, and the Secretary is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charge required under the provisions of section 1709(c) of this title, and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

(k) Debentures; inclusion of payments and taxes; termination of obligation to pay premiums

Notwithstanding any other provision of this section or of section 1739 or 1750c of this title and with respect to any debentures issued in exchange for properties conveyed to and accepted by the Secretary after September 23, 1959 in accordance with such sections, the Secretary may (1) include in debentures reasonable payments made by the mortgagee with the approval of the Secretary for the purpose of protecting, operating, or preserving the property, and taxes imposed upon any deed or any other instrument by which the property was acquired by the mortgagee and transferred or conveyed to the Secretary; (2) include in debentures as a portion of foreclosure costs (to the extent that foreclosure costs may be included in such debentures by any other provision of this chapter) payments made by the mortgagee for the cost of acquiring the property and conveying and evidencing title to the property to the Secretary; and (3) terminate the mortgagee's obligation to pay mortgage insurance premiums upon receipt of an application for debentures filed by the mortgagee, or in the event the contract of insurance is terminated pursuant to section 1715t of this title.

(June 27, 1934, ch. 847, title II, § 204, 48 Stat. 1249; May 28, 1935, ch. 150, § 29(c), 49 Stat. 300; Feb. 19, 1937, ch. 12, 50 Stat. 20; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 12; June 3, 1939, ch. 175, §§ 9, 10, 53 Stat. 806; June 28, 1941, ch. 261, § 9, 55 Stat. 365; Oct. 14, 1943, ch. 258, § 1, 57 Stat. 570;

[1] So in original. There is no subsection "(i)".

Aug. 10, 1948, ch. 832, title I, § 101*l*, (q), 62 Stat. 1273, 1274; Apr. 20, 1950, ch. 94, title I, §§ 105, 122, 64 Stat. 52, 59; Sept. 1, 1951, ch. 378, title VI, § 604(a), 65 Stat. 314; Aug. 2, 1954, ch. 649, title I, §§ 111, 112(a), 113, 68 Stat. 593, 594; Aug. 11, 1955, ch. 783, title I, § 102(a), 69 Stat. 635; July 12, 1957, Pub. L. 85-104, title I, §§ 107, 108(a), 71 Stat. 297; Sept. 23, 1959, Pub. L. 86-372, title I, §§ 114(b), 117, 73 Stat. 662, 664; June 30, 1961, Pub. L. 87-70, title VI, § 612(b), (c), 75 Stat. 180; Sept. 2, 1964, Pub. L. 88-560, title I, §§ 104(a), 105(a), 78 Stat. 769-772; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(d), 79 Stat. 504; May 25, 1967, Pub. L. 90-19, § 1(a)(2), (3), (4), (d), 81 Stat. 17, 18.)

REFERENCES IN TEXT

Section 203(b)(2)(B) of this Act, referred to in subsec. (a), which was formerly classified to section 1709(b)(2)(B) of this title, was repealed by act Apr. 20, 1950, ch. 94, § 104(a), 64 Stat. 51.

Section 203(b)(2)(D), referred to in subsec. (a), which was formerly classified to section 1709(b)(2)(D) of this title, was repealed by act Aug. 2, 1954, ch. 649, title I, § 104, 68 Stat. 591.

The Housing Amendments of 1955, referred to in subsec. (f)(2), refers to act Aug. 11, 1955, ch. 783, 69 Stat. 635. For classification of this Act to the Code, see Short Title of 1955 Amendments note set out under section 1701 of this title.

AMENDMENTS

1967—Pub. L. 90-19, § 1(a)(2), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" in subsec. (g).

Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (d), (e)(1), (f)(1), (f)(1)(i), (ii), (f)(2), (3), (g), (h), (j), and (k) of this section.

Subsec. (f)(3). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing.

Subsec. (g). Pub. L. 90-19, § 1(d), substituted "an officer" for "the Commissioner or by any Assistant Commissioner".

1965—Subsec. (a). Pub. L. 89-117, § 1108(d)(1), struck out reference to section 1715a of this title following reference to section 1709 of this title in the first sentence.

Subsec. (c). Pub. L. 89-117, § 1108(d)(2), substituted "Mutual Mortgage Insurance Fund" for "Fund as to mortgages insured under section 1709 of this title and from the Housing Fund as to mortgages insured under section 1715a of this title".

Subsec. (d). Pub. L. 89-117, § 1108(d) (3) to (6), removed all references to debentures issued with respect to mortgages insured under section 1715a of this title and to the Housing Insurance Fund and substituted Mutual Mortgage Insurance Fund for Fund wherever appearing.

Subsec. (f). Pub. L. 89-117, § 1108(d)(7), struck out the provision of subpar. (1)(i) calling for retention of excess by Commissioner and credit to the Housing Insurance Fund in the case of mortgages insured under section 1713 of this title.

1964—Subsec. (a). Pub. L. 88-560, §§ 104(a), 105(a)(1) to (3), (6)(B), amended the provisions as follows; section 104(a), in proviso reading "And provided further, That with respect to any mortgage covering a one-, two-, three-, or four-family residence", deleted "and it is probable that the mortgage will be restored to good standing within a reasonable period of time" following "control of the mortgagor", substituted "upon such terms and conditions" for "under such regulations and conditions", incorporated the authority of the Commissioner to "extend the time for curing default and enter into an agreement with the mortgage providing that if the mortgage is subsequently foreclosed, any interest accruing after the date of the agreement which is not paid by the mortgagor may be included in the debentures" in clause (1), and provided for the remainder of clause (1), clause (2) and the consideration of the principal amount of the mortgage, as modified, as the "original principal obligation of the mortgage" for the purpose of computing the total face value of the debentures to be issued or the cash payment to be made by the Commissioner to a mortgagee; section 105(a)(1) substituted in the third sentence "charges for the administration, operation, maintenance and repair of community-owned property or the maintenance and repair of the mortgaged property, the obligation for which arises out of a covenant filed for record and approved by the Commissioner prior to the insurance of the mortgage, insurance on the mortgaged property, and any mortgage insurance premiums" for "insurance on the mortgaged property, and any mortgage insurance premiums paid after either of such dates"; section 105(a)(2) inserted the provisos reading "And provided further, That with respect to a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964, the Commissioner may include in debentures or in the cash payment on amount not to exceed the foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner" and "And provided further, That with respect to a mortgage accepted for insurance pursuant to a commitment issued prior to September 2, 1964, the Commissioner may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e)), included in debentures or in the cash payment, in addition to amounts otherwise allowed for such costs, an amount not to exceed one-third of the total foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee:"; section 105(a)(3) deleted from the proviso reading "And provided further, That with respect to mortgages to which the provisions of sections 532 and 536 of Appendix To Title 50 apply" the words "and the payment of insurance premiums" following "on account of interest on debentures" and inserted after such proviso "And provided further, That where the claim is paid in cash there shall be included in the cash payment an amount equivalent to the compensation for loss of debenture interest that would be included in computing debentures if such claim were being paid in debentures"; and section 105(a)(6)(B) substituted "and (subject to subsection (e)(2) of this section) a certificate of claim" for "and a certificate of claim" in the second sentence.

Subsec. (c). Pub. L. 88-560, § 105(a)(4), increased the limitation on the difference between the value of the mortgage and the aggregate face value of the debentures issued from $50 to $350.

Subsec. (d). Pub. L. 88-560, § 105(a)(5), substituted ": Provided That debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Commissioner, in his discretion, may establish by regulation. The debentures" for ", except that debentures issued pursuant to the provisions of section 1715k(f), 1715*l*(g), and 1715x of this title may be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner, and" in the second sentence.

Subsec. (e). Pub. L. 88-560, § 105(a)(6)(A), designated existing provisions as par. (1), substituted therein "Subject to paragraph (2), the certificate" for "The certificate", and added par. (2).

Subsec. (f). Pub. L. 88-560, § 105(a)(7) to (11), designated the introductory par. as par. (1) and substituted therein "If, after deducting (in such manner and amount as the Commissioner shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Commissioner, the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith exceed the face value" for "If the

net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith, after deducting all expenses incurred by the Commissioner in handling, dealing with, and disposing of such property and in collecting such claims, exceeds the face value"; redesignated former par. (1) as (i) and added the proviso; redesignated former par. (2) as (ii); designated the concluding par. as par. (2) and added the proviso; and added par. (3), respectively.

1961—Subsec. (d). Pub. L. 87-70, § 612(b), permitted debentures issued pursuant to the provisions of section 1715k(f), 1715l(g), and 1715x of this title to be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner.

Subsec. (g). Pub. L. 87-70, § 612(c), included instruments relating to personal property, and inserted proviso requiring that a conveyance or transfer of title to real or personal property or an interest therein to the Federal Housing Commissioner, his successors and assigns, without identifying the Commissioner therein, shall be deemed a proper conveyance or transfer.

1959—Subsec. (a). Pub. L. 86-372, § 114(b), authorized the Commissioner, with respect to any mortgage covering a one-, two-, three-, or four-family residence insured under this chapter, if he finds after notice of default, that the default was due to circumstances beyond the control of the mortgagor and it is probable that the mortgage will be restored to good standing within a reasonable period of time, to extend the time for curing default and to enter into an agreement with the mortgagee providing that if the mortgage is subsequently foreclosed, any interest accruing after the date of the agreement which is not paid by the mortgagor may be included in the debentures.

Subsec. (k). Pub. L. 86-372, § 117, substituted "and with respect to any debentures issued in exchange for properties conveyed to and accepted by the Commissioner after September 23, 1959 in accordance with such section" for "with respect to any debentures issued pursuant to this section or section 1739 or 1750c of this title", and inserted provisions authorizing inclusion as a portion of the foreclosure costs payments made by the mortgagee for the cost of acquiring the property and conveying the evidencing title to the property to the Commissioner, and permitting the termination of the mortgagee's obligation to pay mortgage insurance premiums in the event the contract of insurance is terminated pursuant to section 1715t of this title.

1957—Subsec. (d). Pub. L. 85-104, § 108(a), substituted, in the second sentence, "established by the Commissioner pursuant to section 1715o of this title" for "determined by the Commissioner, with the approval of the Secretary of the Treasury, at the time the mortgage was offered for insurance, but not to exceed 3 per centum per annum".

Subsec. (k). Pub. L. 85-104, § 107, added subsec. (k).

1955—Subsec. (f). Act Aug. 11, 1955, authorized the Commissioner to effect the settlement of certificates of claim and refunds to mortgagors.

1954—Subsec. (a). Act Aug. 2, 1954, § 111, (1) permitted a mortgagee to receive in debentures amounts paid by it for federal taxes imposed on a deed to it and on a deed to the Commissioner; (2) substituted, in second proviso, "or under section 1715e of this title, or with respect to any mortgage accepted for insurance under section 1709 of this title on or after August 2, 1954," for "or under section 1715e of this title"; and (3) inserted the proviso permitting direct conveyances to the Commissioner.

Subsec. (d). Act Aug. 2, 1954, § 112(a), substituted in second sentence, provision for a straight 20-year maturity on debentures for former provision that the debentures should mature "three years after the 1st day of July following the maturity date of the mortgage on the property in exchange for which the debentures were issued, except that debentures issued with respect to mortgages insured under section 1715e of this title shall mature twenty years after the date of such debentures".

Subsec. (j). Act Aug. 2, 1954, § 113, added subsec. (j).

1951—Subsec. (d). Sept. 1, 1951, inserted in second sentence the provision that debentures issued with respect to mortgages insured under section 1715e of this title shall mature twenty years after the date of such debentures.

1950—Subsec. (a). Act Apr. 20, 1950, § 105, inserted "or under section 1715e of this title" in second proviso.

1948—Subsec. (a). Act Aug. 10, 1948, § 101(*l*)(1), (2), struck out of first proviso words "prior to July 1, 1944" and inserted second proviso.

Subsec. (f). Act Aug. 10, 1948, § 101(q), inserted "if the mortgage was insured under section 1709 of this title and shall be retained by the Administrator and credited to the Housing Insurance Fund if the mortgage was insured under section 1713 of this title" preceding the colon in par. (1).

1943—Subsec. (a). Act Oct. 14, 1943, added proviso.

1941—Subsec. (a). Act June 28, 1941, substituted "July 1, 1944" for "July 1, 1941" in last sentence.

1939—Subsec. (a). Act June 3, 1939, § 9, generally amended last sentence.

Subsec. (g). Act June 3, 1939, § 10, added the last sentence.

1938—Subsecs. (a) to (f). Act Feb. 3, 1938, amended provisions generally.

Subsecs. (g), (h). Act Feb. 3, 1938, added subsecs. (g) and (h).

1937—Subsec. (b). Act Joint Res. Feb. 19, 1937, substituted "July 1, 1939" for "July 1, 1937".

1935—Subsec. (a). Act May 28, 1935, amended generally last sentence.

RETROACTIVE EFFECT OF CERTAIN 1954 AMENDMENTS

Subsec. (e) of section 112 of act Aug. 2, 1954, provided that the amendments made by section 112 of subsec. (d) of this section, and to sections 1713(i), 1748b(f) and 1750c(f) of this title, shall not apply in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to Aug. 2, 1954.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by section 122 of act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

SETTLEMENT COSTS IN THE FINANCING OF FEDERAL HOUSING ADMINISTRATION AND VETERANS' ADMINISTRATION ASSISTED HOUSING; STUDY AND RECOMMENDATIONS TO CONGRESS ON REDUCTION AND STANDARDIZATION OF COSTS

Pub. L. 91-351, title VII, § 701, July 24, 1970, 84 Stat. 461, provided that:

"(a) With respect to housing built, rehabilitated, or sold with assistance provided under the National Housing Act [this chapter] or under chapter 37 of title 38, United States Code [chapter 37 of title 38], the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs are respectively authorized and directed to prescribe standards governing the amounts of settlement costs allowable in connection with the financing of such housing in any such area. Such standards shall—

"(1) be established after consultation between the Secretary and the Administrator;

"(2) be consistent in any area for housing assisted under the National Housing Act and housing assisted under chapter 37 of title 38, United States Code; and

"(3) be based on the Secretary's and the Administrator's estimates of the reasonable charge for necessary services involved in settlements for particular classes of mortgages and loans.

"(b) The Secretary and the Administrator shall undertake a joint study and make recommendations to the Congress not later than one year after the date of enactment of this Act [July 24, 1970] with respect to legislative and administrative actions which should be

taken to reduce mortgage settlement costs and to standardize these costs for all geographic areas."

CROSS REFERENCES

Applicability of this section—
Section 1706c of this title, see section 1706c of this title.
Section 1715k of this title, see section 1715k of this title.
Section 1715*l* of this title, see section 1715*l* of this title.
Section 1715m of this title, see section 1715m of this title.
Section 1748h-1 of this title, see section 1748h-1 of this title.

Reference to Fund or Mutual Mortgage Insurance Fund construed to refer to General Insurance Fund, see sections 1706c, 1715k, 1715*l*, 1715m and 1748h-1 of this title.

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706c, 1712, 1715e, 1715k, 1715*l*, 1715m, 1715u, 1715x, 1715y, 1715z-3, 1748h-1, 1748h-2, 1750c of this title.

§ 1711. General Surplus and Participating Reserve Accounts

(a) Establishment; abolishment of General Reinsurance Account

The Secretary shall establish as of July 1, 1954, in the Mutual Mortgage Insurance Fund a General Surplus Account and a Participating Reserve Account. All of the assets of the General Reinsurance Account shall be transferred to the General Surplus Account whereupon the General Reinsurance Account shall be abolished. There shall be transferred from the various group accounts to the Participating Reserve Account as of July 1, 1954, an amount equal to the aggregate amount which would have been distributed under the provisions of this section in effect on June 30, 1954, if all outstanding mortgages in such group accounts had been paid in full on said date. All of the remaining balances of said group accounts shall as of said date be transferred to the General Surplus Account whereupon all of said group accounts shall be abolished.

(b) Credits and charges

The aggregate net income thereafter received or any net loss thereafter sustained by the Mutual Mortgage Insurance Fund in any semiannual period shall be credited or charged to the General Surplus Account and/or the Participating Reserve Account in such manner and amounts as the Secretary may determine to be in accord with sound actuarial and accounting practice.

(c) Distribution of funds to terminating mortgagors

Upon termination of the insurance obligation of the Mutual Mortgage Insurance Fund by payment of any mortgage insured thereunder, the Secretary is authorized to distribute to the mortgagor a share of the Participating Reserve Account in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice: *Provided*, That, in no event, shall any such distributable share exceed the aggregate scheduled annual premiums of the mortgagor to the year of termination of the insurance.

(d) Rights and liabilities

No mortgagor or mortgagee of any mortgage insured under section 1709 of this title shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Fund and the determination of the Secretary as to the amount to be paid by him to any mortgagor shall be final and conclusive.

(June 27, 1934, ch. 847, title II, § 205, 48 Stat. 1250; May 28, 1935, ch. 150, § 29(b), 49 Stat. 300; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 15; June 3, 1939, ch. 175, § 11, 53 Stat. 807; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; June 30, 1953, ch. 170, § 4, 67 Stat. 122; Aug. 2, 1954, ch. 649, title I, § 114, 68 Stat. 594; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (d) of this section.

1954—Act Aug. 2, 1954, amended section generally to eliminate the former group accounts and substitute therefor a general surplus account and participating reserve account.

1953—Subsec. (c). Act June 30, 1953, inserted sentence relating to semi-annual transfer of group accounts, and, in remainder of section, changed the provisions relating to settlement of accounts.

1939—Subsec. (b). Act June 3, 1939, inserted "prior to July 1, 1939".

1938—Subsecs. (a) to (f). Act Feb. 3, 1938, amended provisions generally, and among other changes, deleted subsec. (f).

1935—Subsec. (f). Act May 28, 1935, substituted, in the first sentence, "annual premium charge" for "premium charge".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1712. Investment of funds

Moneys in the Fund not needed for the current operations of the Department of Housing and Urban Development related to insurance under section 1709 of this title shall be deposited with the Treasurer of the United States to the credit of the Fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued under the provisions of section 1710 of this title. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued, and the several group accounts to which such debentures have been charged shall be charged with the amounts used in making such purchases.

(June 27, 1934, ch. 847, title II, § 206, 48 Stat. 1252; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 16; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(1), (3), (e), 81 Stat. 17, 18; Dec. 31, 1970, Pub. L. 91-609, title I, § 117(a), 84 Stat. 1774.)

AMENDMENTS

1970—Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of monies in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1967—Pub. L. 90-19 substituted "Department of Housing and Urban Development" and "Secretary" for "Federal Housing Administration" and "Commissioner" and inserted "related to insurance under section 1709 of this title" preceding "shall be deposited", respectively.

1938—Act Feb. 3, 1938, among other changes, inserted "or in bonds or other obligations guaranteed as to principal and interest by", in first sentence, and added third sentence.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

CROSS REFERENCES

Mutual Mortgage Insurance Fund, see section 1708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 895.

§ 1713. Rental housing insurance

(a) Definitions

As used in this section—

(1) The terms "mortgage" means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable or (B) under a lease having a period of not less than fifty years to run from the date the mortgage was executed, upon which there is located or upon which there is to be constructed a building or buildings designed principally for residential use, or upon which there is located or to be constructed facilities for mobile homes, and the term "first mortgage" means such classes of first liens as are commonly given to secure advances (including but not being limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State, in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and may be in the form of trust mortgages or mortgage indentures or deeds of trust securing notes, bonds, or other credit instruments.

(2) The term "mortgagee" means the original lender under a mortgage, and its successors and assigns, and includes the holders of credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named.

(3) The term "mortgagor" means the original borrower under a mortgage and its successors and assigns.

(4) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with the periodic payments provided for in the mortgage.

(5) The term "slum or blighted area" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health, or morals.

(6) The term "rental housing" means housing, the occupancy of which is permitted by the owner thereof in consideration of the payment of agreed charges, whether or not, by the terms of the agreement, such payment over a period of time will entitle the occupant to the ownership of the premises or space in a mobile home court or park properly arranged and equipped to accommodate mobile homes.

(7) The term "State" includes the several States, and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(b) Insurance of additional mortgages

In addition to mortgages insured under section 1709 of this title, the Secretary is authorized to insure mortgages as defined in this section (including advances on such mortgages during construction) which cover property held by—

(1) Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations restricted by Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation; or

(2) any other mortgagor approved by the Secretary which, until the termination of all obligations of the Secretary under the insurance and during such further period of time as the Secretary shall be the owner, holder, or reinsurer of the mortgage, is regulated or restricted by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operation to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment. The Secretary may make such contracts with and acquire, for not to exceed $100, such stock or interest in the mortgagor as he may deem necessary to render effective the regulations or restrictions. The stock or interest acquired by the Secretary shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

The insurance of mortgages under this section is intended to facilitate particularly the production of rental accommodations, at reasonable rents, of design and size suitable for family living. The Secretary is, therefore, authorized and directed in the administration of this section to take action, by regulation or otherwise, which will direct the benefits of mortgage insurance hereunder primarily to those

projects which make adequate provision for families with children, and in which every effort has been made to achieve moderate rental charges.

Notwithstanding any other provisions of this section, no mortgage shall be insured, hereunder unless the mortgagor certifies under oath that in selecting tenants for the property covered by the mortgage he will not discriminate against any family by reason of the fact that there are children in the family, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certification to be filed with the Secretary. Violation of any such certification shall be a misdemeanor punishable by a fine of not to exceed $500.

(c) Eligibility for insurance; mortgage limits

To be eligible for insurance under this section a mortgage on any property or project shall involve a principal obligation in an amount—

(1) Repealed. Pub. L. 93-383, title III, § 304(a)(1), Aug. 22, 1974, 88 Stat. 677.

(2) Not to exceed 90 per centum of the estimated value of the property or project (when the proposed improvements are completed): *Provided,* That this limitation shall not apply to mortgages on housing in Alaska or in Guam, but such a mortgage may involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the value of the property or project as such term is used in this paragraph may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest accruing during construction, and other miscellaneous charges incident to construction and approved by the Secretary): *And provided further,* That nothing contained in this section shall preclude the insurance of mortgages covering existing construction located in slum or blighted areas, as defined in paragraph (5) of subsection (a) of this section, and the Secretary may require such repair or rehabilitation work to be completed as is, in his discretion, necessary to remove conditions detrimental to safety, health, or morals; and

(3) Not to exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $19,500 per family unit without a bedroom, $21,600 per family unit with one bedroom, $25,800 per family unit with two bedrooms, $31,800 per family unit with three bedrooms, and $36,000 per family unit with four or more bedrooms, or not to exceed $3,900 per space; except that as to projects to consist of elevatortype structures the Secretary may in his discretion, increase the dollar amount limitations per family unit to not to exceed $22,500 per family unit without a bedroom, $25,200 per family unit with one bedroom, $30,900 per family unit with two bedrooms, $38,700 per family unit with three bedrooms, and $43,758 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by not to exceed 50 per centum in any geographical area where he finds that cost levels so require.

The mortgage shall provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 5¼ per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release. No mortgage shall be accepted for insurance under this section or section 1715a of this title unless the Secretary finds that the property or project, with respect to which the mortgage is executed, is economically sound. Such property or project may include eight or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants.

(d) Premium, appraisal, and inspection charges

The Secretary shall collect a premium charge for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures issued by the Secretary under any subchapter and section of this chapter, except debentures of the Mutual Mortgage Insurance Fund, or of the Cooperative Management Housing Insurance Fund at par plus accrued interest. In addition to the premium charge herein provided for the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project offered for insurance and for the inspection of such property or project during construction: *Provided,* That such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(e) Adjusted premium charge on payment of mortgage

In the event that the principal obligation of any mortgage accepted for insurance under this section is paid in full prior to the maturity date, the Secretary is authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until such maturity date.

(f) Repealed. Pub. L. 89-117, title XI, § 1108(e)(3), Aug. 10, 1965, 79 Stat. 504

(g) Payment of insurance after default

The failure of the mortgagor to make any payment due under or provided to be paid by the terms of a mortgage insured under this sec-

tion shall be considered a default under such mortgage and, if such default continues for a period of thirty days, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon assignment, transfer, and delivery to the Secretary, within a period and in accordance with rules and regulations to be prescribed by the Secretary of (1) all rights and interests arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transactions; (3) all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; (4) any balance of the mortgage loans not advanced to the mortgagor; (5) any cash or property held by the mortgagee, or to which it is entitled, as deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and (6) all records, documents, books, papers, and accounts relating to the mortgage transactions. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for mortgage insurance shall cease, and the Secretary shall, subject to the cash adjustment provided for in subsection (j) of this section, issue to the mortgagee a certificate of claim as provided in subsection (h) of this section, and debentures having a total face value equal to the original principal face amount of the mortgage plus such amount as the mortgagee may have paid for (A) taxes, special assessments, and water rates, which are liens prior to the mortgage; (B) insurance on the property; and (C) reasonable expenses for the completion and preservation of the property and any mortgage insurance premiums paid after default, less the sum of (i) that part of the amount of the principal obligation that has been repaid by the mortgagor, (ii) an amount equivalent to 1 per centum of the unpaid amount of such principal obligation, and (iii) any net income received by the mortgagee from the property: *Provided*, That the mortgagee in the event of a default under the mortgage may, at its option and in accordance with regulations of, and in a period to be determined by, the Secretary, proceed to foreclose on and obtain possession of or otherwise acquire such property from the mortgagor after default, and receive the benefits of the insurance as herein provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of the rules and regulations of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner prescribed by such rules and regulations, and (2) the assignment to him of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims that may have been released with the consent of the Secretary. Upon such conveyance and assignment, the obligation of the mortgagee to pay the premium charges for insurance shall cease and the mortgagee shall be entitled to receive the benefits of the insurance as provided in this subsection, except that in such event the 1 per centum deduction, set out in (ii) hereof, shall not apply. Notwithstanding any other provision of this chapter, upon receipt, after September 2, 1964, of an application for insurance benefits on a mortgage insured under this chapter, the Secretary may terminate the mortgagee's obligation to pay premium charges on the mortgage.

(h) Certificate of claim; division of excess proceeds

The certificate of claim issued under this section shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, on the date of the assignment, transfer and delivery to the Secretary provided for in subsection (g) of this section, the mortgagor had extinguished the mortgage indebtedness by payment in full of all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. If the net amount realized from the mortgage, and all claims in connection therewith, so assigned, transferred, and delivered, and from the property covered by such mortgage and all claims in connection with such property, after deducting all expenses incurred by the Secretary in handling, dealing with, acquiring title to, and disposing of such mortgage and property and in collecting such claims, exceeds the face value of the debentures issued and the cash adjustment paid to the mortgagee plus all interest paid on such debentures, such excess shall be divided as follows:

(1) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be retained by the Secretary and credited to the General Insurance Fund; and

(2) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(i) Debentures; execution; negotiability; terms; tax exemptions

Debentures issued under this section shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable, and shall be dated as of the date of default as determined in subsection (g) of this section, except that debentures issued pursuant to the provisions of sections 1715k(f), 1715*l*(g), and 1715x of this title may be dated as of the date the mortgage is assigned (or the property is conveyed) to the Secretary and shall bear interest from such date. They shall bear interest at a rate established by the Secretary pursuant to section 1715o of this title payable semiannually on the 1st day of Janu-

ary and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for mortgages insured after February 3, 1938, shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. They shall be paid out of the General Insurance Fund which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and such guaranty shall be expressed on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amount so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(j) Debentures; form and denomination

Debentures issued under this section shall be in such form and denominations in multiples of $50, shall be subject to such terms and conditions, and shall include such provision for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the amount of debentures to which the mortgagee is entitled under this section, and the aggregate face value of the debentures issued, not to exceed $50, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the General Insurance Fund.

(k) Acquisition of property by conveyance or foreclosure

The Secretary is authorized either to (1) acquire possession of and title to any property, covered by a mortgage insured under this section and assigned to him, by voluntary conveyance in extinguishment of the mortgage indebtedness, or (2) institute proceedings for foreclosure on the property covered by any such insured mortgage and prosecute such proceedings to conclusion. The Secretary at any sale under foreclosure may, in his discretion, for the protection of the General Insurance Fund, bid any sum up to but not in excess of the total unpaid indebtedness secured by the mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses, and may become the purchaser of the property at such sale. The Secretary is authorized to pay from the General Insurance Fund such sums as may be necessary to defray such taxes, insurance, costs, fees, and other expenses in connection with the acquisition or foreclosure of property under this section. Pending such acquisition by voluntary conveyance or by foreclosure, the Secretary is authorized, with respect to any mortgage assigned to him under the provisions of subsection (g) of this section, to exercise all the rights of a mortgagee under such mortgage, including the right to sell such mortgage, and to take such action and advance such sums as may be necessary to preserve or protect the lien of such mortgage.

(*l*) Handling and disposal of property; settlement of claims

Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Secretary shall also have power, for the protection of the interests of the General Insurance Fund, to pay out of the General Insurance Fund all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit or lease in his discretion, any property acquired by him under this section, and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims assigned and transferred to him in connection with the assignment, transfer, and delivery provided for in this section, and at any time, upon default, to foreclose on any property secured by any mortgage assigned and transferred to or held by him: *Provided,* That section 5 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000.

(m) Repealed. Pub. L. 89–117, title XI, § 1108(e)(3), Aug. 10, 1965, 79 Stat. 504

(n) Default or payment; rights of parties

In the event that a mortgage insured under this section becomes in default through failure of the mortgagor to make any payment due under or provided to be paid by the terms of the mortgage and such mortgage continues in default for a period of thirty days, but the mortgagee does not foreclose on or otherwise acquire the property, or does not assign and transfer such mortgage and the credit instrument secured thereby to the Secretary, in accordance with subsection (g) of this section, and the Secretary is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charge required under the provisions of subsection (e) of this section, and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay the annual premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

(*o*) Reissue of prior insurance

The Secretary, with the consent of the mortgagee and the mortgagor of a mortgage insured under this section prior to February 3, 1938, shall be empowered to reissue such mortgage insurance in accordance with the provisions of this section as amended by the National Housing Act Amendments of 1938, and any such insurance not so reissued shall not be affected by the enactment of such Act.

(p) Repealed. Pub. L. 89–117, title XI, § 1108(e)(3), Aug. 10, 1965, 79 Stat. 504

(q) Repealed. Pub. L. 85–104, title I, § 111, July 12, 1957, 71 Stat. 297

(r) Service charge for mortgages assigned to and held by the Secretary

Notwithstanding any other provision of this chapter, the Secretary is authorized to include in any mortgage insured under any subchapter of this chapter after September 23, 1959, a provision requiring the mortgagor to pay a service charge to the Secretary in the event such mortgage is assigned to and held by the Secretary. Such service charge shall not exceed the amount prescribed by the Secretary for mortgage insurance premiums applicable to such mortgage.

(June 27, 1934, ch. 847, title II, § 207, 48 Stat. 1252; Aug. 23, 1935, ch. 614, title III, § 344(d), 49 Stat. 722; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 16; June 3, 1939, ch. 175, § 12, 53 Stat. 807; Mar. 28, 1941, ch. 31, § 4(b), 55 Stat. 62; July 1, 1948, ch. 784, § 6, 62 Stat. 1209; Aug. 10, 1948, ch. 832, title I, § 101 (m–p, r), 62 Stat. 1273, 1274; Apr. 20, 1950, ch. 94, title I, §§ 106–112, 122, 64 Stat. 53, 59; Sept. 1, 1951, ch. 378, title VI, §§ 604(b), 605, 65 Stat. 314; July 14, 1952, ch. 723, § 10(a)(2), 66 Stat. 603; June 30, 1953, ch. 170, § 5, 67 Stat. 122; Aug. 2, 1954, ch. 649, title I, §§ 112(b), 115–117, 68 Stat. 593–595; Aug. 11, 1955, ch. 783, title I, § 102(b), (c), 69 Stat. 635; Aug. 7, 1956, ch. 1029, title I, §§ 103, 104(b), (c), 70 Stat. 1092; July 12, 1957, Pub. L. 85–104, title I, §§ 108(b), 109–111, 71 Stat. 297; June 25, 1959, Pub. L. 86–70, § 10(a), (b), 73 Stat. 142; Sept. 23, 1959, Pub. L. 86–372, title I, § 104, 73 Stat. 655; July 12, 1960, Pub. L. 86–624, § 6, 74 Stat. 411; June 30, 1961, Pub. L. 87–70, title VI, § 607, 75 Stat. 178; Sept. 2, 1964, Pub. L. 88–560, title I, §§ 105(b), 106, 107(a), 108, 78 Stat. 772, 774, 776; Aug. 10, 1965, Pub. L. 89–117, title II, § 207(a), title XI, § 1108(e), 79 Stat. 467, 504; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; May 7, 1968, Pub. L. 90–301, § 3(b), 82 Stat. 114; Dec. 24, 1969, Pub. L. 91–152, title I, §§ 103(a), (b), 113(b), title IV, § 403(c)(2), 83 Stat. 380, 383, 395; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 303(a), 304(a), 88 Stat. 676, 677; Dec. 23, 1975, Pub. L. 94–173, § 3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94–375, § 8(a), (b)(1), 90 Stat. 1071.)

REFERENCES IN TEXT

Section 1715a of this title, referred to in subsec. (c), which related to additional housing insurance, was repealed by act June 3, 1939, ch. 175, § 13, 53 Stat. 807.

The National Housing Act Amendments of 1938, referred to in subsec. (o), is act Feb. 3, 1938. For distribution of amendments by act Feb. 3, 1938, see References in Text note under section 1701a of this title.

AMENDMENTS

1976—Subsec. (c)(3). Pub. L. 94–375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "$19,500" for "$13,000", "$21,600" for "$18,000", "$25,800" for "$21,500", "$31,800" for "$26,500", "$36,000" for "$30,000", "$3,900" for "$3,250", "$22,500" for "$15,000", "$25,200" for "$21,000", "$30,900" for "$25,750", "$38,700" for "$32,250", and "$43,758" for "$36,465".

1975—Subsec. (c)(3). Pub. L. 94–173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (c)(1). Pub. L. 93–383, § 304(a)(1), struck out subsec. (c)(1) which set forth limits on principal obligation of not to exceed $20,000,000, or not to exceed $50,000,000 if executed by a mortgagor under subsec. (b)(1) of this section.

Subsec. (c)(3). Pub. L. 93–383, §§ 303(a), 304(a)(2), substituted "$3,250" for "$2,500", "$13,000" for "$9,900", "$15,000" for "$11,550", "$18,000" for "$13,750", "$21,000" for "$16,500", "$21,500" for "$16,500", "$25,750" for "$19,800", "$26,500" for "$20,350", "$30,000" for "$23,100", "$32,250" for "$24,750", and "$36,465" for "$28,050", and struck out limitation of $1,000,000 per mortgage for trailer courts or parks.

1969—Subsec. (a)(1). Pub. L. 91–152, § 103(a)(1)(A), substituted "mobile homes" for "trailer coach mobile dwellings".

Subsec. (a)(6). Pub. L. 91–152, § 103(a)(1)(B), (C), substituted "mobile home court" for "trailer court" and "mobile homes" for "trailer coach mobile dwellings".

Subsec. (a)(7). Pub. L. 91–152, § 403(c)(2), inserted "the Trust Territory of the Pacific Islands," following "Guam,".

Subsec. (c)(3). Pub. L. 91–152, §§ 103(a)(2), (b), 113(b)(1), (2), substituted "$2,500 per space or $1,000,000 per mortgage for mobile home courts or parks" for "$1,800 per space or $500,000 per mortgage for trailer courts or parks", "$9,900" for "$9,000", "$11,550" for "$10,500", "$13,750" for "$12,500," "$16,500" from "$15,000" wherever appearing therein, "$19,800" for "$18,000", "$20,350" for "$18,500", "$23,100" for "$21,000", "$24,750" for "$22,500", and "$28,050" for "$25,500".

1968—Subsec. (c)(3). Pub. L. 90–301 limited the interest rate on mortgages to such per centum per annum not in excess of 6 per centum as the secretary finds necessary to meet the mortgage market.

1967—Pub. L. 90–19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b), (b)(2), (c)(2), (3), (d), (e), (g), (h), (h)(1), (h)(2), (h)(2)(i), (j) to (l), (n), (o), and (r) of this section.

1965—Subsec. (b). Pub. L. 89–117, § 1108(e)(4), substituted "General Insurance Fund" for "Housing Fund".

Subsec. (c)(3). Pub. L. 89–117, § 207(a), substituted "$18,500 per family unit with three bedrooms, and $21,000 per family unit with four or more bedrooms" for "and $18,500 per family unit with three or more bedrooms" and "$22,500 per family unit with three bedrooms, and $25,000 per family unit with four or more bedrooms" for "and $22,500 per family unit with three or more bedrooms".

Subsec. (d). Pub. L. 89–117, § 1108(e)(1), (2), removed reference to collection of premium charges for the insurance of mortgages under section 1715a of this title and substituted "debentures issued by the Commissioner under any subchapter and section of this chapter, except debentures of the Mutual Mortgage Insurance Fund, or of the Cooperative Management Housing Insurance Fund" for "debentures of the Housing Insurance Fund issued by the Commissioner under this subchapter".

Subsec. (f). Pub. L. 89–117, § 1108(e)(3), repealed subsec. (f) which created the Housing Insurance Fund.

Subsecs. (h) to (l). Pub. L. 89–117, § 1108(e)(4), substituted "General Insurance Fund" for "Housing Insurance Fund" and "Housing Fund" wherever appearing.

Subsec. (m). Pub. L. 89–117, § 1108(e)(3), repealed subsec. (m) which provided for credits and charges in the Housing Insurance Fund.

Subsec. (p). Pub. L. 89–117, § 1108(e)(3), repealed subsec. (p) which provided for the disposition of surplus moneys in the Housing Insurance Fund and the investment of such moneys.

1964—Subsec. (c)(2). Pub. L. 88–560, § 106, substituted "Provided, That this limitation shall not apply" for "Provided, That except with respect to a mortgage ex-

ecuted by a mortgagor coming within the provisions of subsection (b)(1) of this section or a mortgage on a trailer court or park, such mortgage shall not exceed the amount which the Commissioner estimates will be the cost of the completed physical improvements on the property or project exclusive of public utilities and streets and organization and legal expenses: Provided, further, That this limitation shall not apply" preceding "to mortgages on housing in Alaska."

Subsec. (c)(3). Pub. L. 88-560, § 107(a), changed limits on mortgages for property or project attributable to dwelling use from "$2,500 per room (or $9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "$9,000 per family unit without a bedroom, $12,500 per family unit with one bedroom, $15,000 per family unit with two bedrooms, and $18,500 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of $2,500 per room to not exceed $3,000 per room and the dollar amount limitation of $9,000 per family unit to not exceed $9,400 per family unit" to dollar amount limitations "per family unit to not to exceed $10,500 per family unit without a bedroom, $15,000 per family unit with one bedroom, $18,000 per family unit with two bedrooms, and $22,500 per family unit with three or more bedrooms", and substituted provision authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such an increase "by not to exceed $1,250 per room without regard to the number of rooms being less than four, or four or more".

Subsec. (g). Pub. L. 88-560, § 105(b) added the provision for termination of mortgagee's obligation to pay premium charges on the mortgage.

Subsec. (k). Pub. L. 88-560, § 108, deleted the second sentence providing for mandatory acquisition or foreclosure within one year of multifamily project in default.

1961—Subsec. (b)(2). Pub. L. 87-70, § 607(1), eliminated provisions from the first paragraph which limited the Commissioner's authority to insure mortgages to property held by private corporations, associations, cooperative societies which are legal agents of owner-occupants, or trusts formed or created for the purpose of rehabilitating slum or blighted areas, or providing housing for rent or sale.

Subsec. (c)(3). Pub. L. 87-70, § 607(2), (3), inserted the parenthetical phrase "(excluding exterior land improvements as defined by the Commissioner)", and substituted "$1,800 per space" for "$1,500 per space".

Subsec. (i). Pub. L. 87-70, § 607(4), permitted debentures issued pursuant to the provisions of section 1715k(f), 1715*l*(g), and 1715x of this title to be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner.

1960—Subsec. (a)(7). Pub. L. 86-624 eliminated "Hawaii," preceding "Puerto Rico".

1959—Subsec. (a)(7). Pub. L. 86-70, § 10(a), eliminated "Alaska," preceding "Hawaii".

Subsec. (b). Pub. L. 86-372, § 104(e)(1), eliminated the exceptions that related to housing for elderly persons from the two unnumbered paragraphs following par. (2).

Subsec. (c). Pub. L. 86-372, § 104(c), (e)(2), eliminated provisions that authorized insurance of mortgages not more than $8,100 if the entire property or project was specially designed for the use and occupancy of elderly persons and the mortgagor is a financially qualified nonprofit organization, and substituted in the unnumbered paragraph following par. (3) "5¼ per centum per annum" for "4½ per centum per annum".

Subsec. (c)(1). Pub. L. 86-372, § 104(a), substituted "$20,000,000" for "$12,500,000".

Subsec. (c)(2). Pub. L. 86-70, § 10(b), substituted "Alaska" for "the Territory of Alaska".

Subsec. (c)(3). Pub. L. 86-372, § 104(b), substituted "$2,500" for "$2,250" in two instances, "$9,000" for "$8,100" in two instances, "$3,000" for "$2,700", "$9,400" for "$8,400", "$1,250 per room" for "$1,000 per room", "$1,500 per space" for "$1,000 per space", and "$500,000" for "$300,000".

Subsec. (f). Pub. L. 86-372, § 104(e)(3), substituted "sections 1715a, 1715e, 1715v, and 1715w of this title" for "sections 1715a and 1715e of this title" in two instances.

Subsec. (r). Pub. L. 86-372, § 104(d), added subsec. (r).

1957—Subsec. (c). Pub. L. 85-104, § 110, inserted in unnumbered paragraph following par. (3), "(or $8,400 per family unit in the case of projects to consist of elevator-type structures)", and the words "and may permit single elderly persons to use and occupy such units".

Subsec. (c)(3). Pub. L. 85-104, § 109, eliminated the words "per room" following "limitations", and inserted "without regard to the number of rooms being less than four, or four or more,".

Subsec. (i). Pub. L. 85-104, § 108(b), substituted in the second sentence, the words "established by the Commissioner pursuant to section 1715o of this title" for "determined by the Commissioner, with the approval of the Secretary of the Treasury, at the time the mortgage was insured, but not to exceed 3 per centum per annum".

Subsec. (q). Pub. L. 85-104, § 111, repealed provisions which related to insurance of mortgages by Federal National Mortgage Association. See section 1715e of this title.

1956—Subsec. (b). Act Aug. 7, 1956, § 104(b), inserted "(except provisions relating to housing for elderly persons)" before "to take" in paragraph following par. (2), and inserted "(except with respect to housing designed for elderly persons, with occupancy preference therefor, as provided in the paragraph following paragraph (3) of subsection (c) of this section)" after "hereunder" in the second unnumbered paragraph following par. (2).

Subsec. (c). Act Aug. 7, 1956, § 104(c), substituted provisions of unnumbered paragraph following par. (3) that in certain housing for elderly persons, the mortgage may involve a principal obligation of $8,100 per family unit and 90 percent of the replacement cost, for former provisions that if the number of bedrooms is equal or exceeds two per family unit, and the principal obligation does not exceed $7,200 per family unit, the mortgage may involve a principal obligation not in excess of 90 percent of the value of the property.

Subsec. (c)(2). Act Aug. 7, 1956, § 103(a), substituted "90 per centum" for "80 per centum".

Subsec. (c)(3). Act Aug. 7, 1956, § 103(b), increased limits on mortgages from $2,000 per room to $2,250 per room, from $7,200 to $8,100 where the number of rooms in the project is less than 4 per family unit, from $2,400 to $2,700 per room and $7,500 to $8,400 per family unit for elevator type structures, and added provision allowing Commissioner to increase dollar amount limitations by not to exceed $1,000 per room.

1955—Subsec. (a). Act Aug. 11, 1955, § 102(b)(1), (2), inserted provisions relating to trailer coach mobile dwellings in par. (1)(B), and included space in a trailer court or park in the definition of "rental housing" in par. (6).

Subsec. (c). Act Aug. 11, 1955, § 102(b)(5), amended the last paragraph to authorize insurance of mortgages on rental properties having eight or more family units.

Subsec. (c)(1). Act Aug. 11, 1955, § 102(c), increased from $5,000,000 to $12,500,000 the limitation on the maximum amount of a mortgage.

Subsec. (c)(2). Act Aug. 11, 1955, § 102(b)(3), inserted "or mortgage on a trailer court or park".

Subsec. (c)(3). Act Aug. 11, 1955, § 102(b)(4), inserted "or not to exceed $1,000 per space or $300,000 per mortgage for trailer courts or parks".

1954—Subsec. (c)(2). Act Aug. 2, 1954, § 115(1)(2), inserted the proviso relating to mortgage insurance with respect to construction in slum or blighted areas, and inserted the reference to Guam.

Subsec. (c)(3). Act Aug. 2, 1954, § 115(3), eliminated the $10,000 per family-unit limitation, and inserted

provisions permitting an increase in the limitations of $2,000 per room and $7,200 per family unit (less than four rooms) to $2,400, and $7,500, respectively, for elevator-type structures.

Subsec. (d). Act Aug. 2, 1954, § 116, inserted in first sentence "of the Housing Insurance Fund" after "debentures".

Subsec. (h). Act Aug. 2, 1954, § 117, at end of first sentence, added the language relating to inclusion of foreclosure costs, costs of acquisition, and costs of conveyance to the Commissioner.

Subsec. (i). Act Aug. 2, 1954, § 112(b), substituted in second sentence a twenty-year period for the ten-year period, with respect to the maturity of debentures.

1953—Subsec. (c). Act June 30, 1953, § 5(a), added par. following par. (3).

Subsec. (c)(2). Act June 30, 1953, § 5(a), substituted "80 per centum of the estimated value of the property or project (when the proposed improvements are completed)" for limitation of 90 per cent of value attributable to dwelling use up to $7,000 per family unit, 60 per cent of such value over $7,000 and up to $10,000, and 90 per cent of value attributable to non-dwelling use.

Subsec. (c)(3). Act June 30, 1953, § 5(a), substituted provisions for maximum mortgage amount of $2,000 per room (or $7,200 per family unit if the number of rooms does not equal or exceed four per family unit), up to $10,000 per family unit, for provisions which fixed a limitation of $8,100 per family unit (or $7,200 if the number of rooms was less than four per family unit), provided for amortization of the mortgage and rate of interest, provided for consent to release of part of mortgaged property, prohibited acceptance of mortgages on properties not economically sound, and provided for inclusion with mortgaged properties adequate commercial and community facilities.

Subsec. (i). Act June 30, 1953, § 5(b), substituted in second sentence, "ten" years for "twenty" years.

1952—Subsec. (a)(7). Act July 14, 1952, inserted "Guam," after "District of Columbia,".

1951—Subsec. (c)(2). Act Sept. 1, 1951, § 605, in clause (i), substituted "of the property or project attributable to dwelling use" for "of the property or project"; in clause (ii), inserted "and" after "unit"; and added clause (iii).

Subsec. (c)(3). Act Sept. 1, 1951, § 605, substituted "four per family unit" for "four and one-half per family unit".

Subsec. (i). Act Sept. 1, 1951, § 604(b), substituted in second sentence the provision that such debentures shall mature twenty years after the date thereof, for the provision that they should mature three years after the first day of July following the maturity date of the mortgage in exchange for which the debentures were issued.

1950—Subsec. (b). Act Apr. 20, 1950, § 106, added last two unnumbered pars.

Subsec. (c)(2). Act Apr. 20, 1950, § 107(1), provided that the mortgage would not exceed 90% of the first $7,000 estimated value of the property and 60% of such estimated value in excess of $7,000 and not in excess of $10,000.

Subsec. (c)(3). Act Apr. 20, 1950, § 107(2), (3), provided a dollar mortgage limitation of $8,100 per family unit or $7,200 per family unit if the number of rooms did not equal or exceed four and one-half per family unit, and struck out of the first sentence of the last paragraph the words ", except that with respect to mortgages insured under the provisions of the second proviso of paragraph (2) of this subsection, which mortgages are authorized to have a maturity of not exceeding forty years from the date of insurance of the mortgage, such interest rate shall not exceed 4 per centum per annum".

Subsec. (d). Act Apr. 20, 1950, § 108, struck out of proviso words "one-half of" preceding 1 per centum.

Subsec. (f). Act Apr. 20, 1950, § 109, inserted "and section 1715e" preceding "of this title", wherever appearing.

Subsec. (g). Act Apr. 20, 1950, § 110, inserted "and any mortgage insurance premiums paid after default" following "preservation of the property" in clause (C) of last sentence, and substituted proviso of last sentence for the one reading "That the mortgagee in event of a default under the mortgage, may, at its option and in accordance with rules and regulations to be prescribed by the Commissioner, proceed to foreclose on or otherwise acquire the property as provided in the case of a mortgage which is in default under section 1715a of this title and receive the benefits of the insurance as provided in such section".

Subsec. (h). Act Apr. 20, 1950, § 111, substituted "under this section" following "claim issued" in the first sentence for "by the Commissioner to any mortgagee upon the assignment of the mortgage to the Commissioner".

Subsec. (i). Act Apr. 20, 1950, § 112, struck out first sentence and substituted "Debentures issued under this section shall be executed in the name of the Housing Insurance Fund as obligor, shall be signed by the Commissioner by either his written or engraved signature, shall be negotiable, and shall be dated as of the date of default as determined in subsection (g) of this section and shall bear interest from such date".

1948—Subsec. (b)(1) Act Aug. 10, 1948, § 101(m), substituted "restricted by Federal or State laws or regulations of State banking or insurance departments" for "formed under and restricted by Federal or State housing laws".

Subsec. (c). Act Aug. 10, 1948, § 101(n)(1) to (3), rewrote the first sentence, added "except that with respect to mortgages insured under the provisions of the second proviso of paragraph numbered (2) of this subsection, which mortgages are hereby authorized to have a maturity of not exceeding forty years from the date of the insurance of the mortgage, such interest rate shall not exceed 4 per centum per annum" to end of second sentence, and added last sentence.

Act July 1, 1948, added the proviso.

Subsec. (g). Act Aug. 10, 1948, § 101(o), substituted, in clause (ii), "(1)" for "(2)".

Subsec. (h). Act Aug. 10, 1948, § 101(p), substituted "retained by the Housing Administrator and credited to the Housing Insurance Fund" for "paid to the mortgagor of such property".

Subsec. (q). Act Aug. 10, 1948, § 101(r), added subsec. (q).

1941—Subsec. (a)(1). Act Mar. 28, 1941, § 4(b)(1), struck out "district or territory".

Subsec. (a)(7). Act Mar. 28, 1941, § 4(b)(2), added par. (7).

1939—Subsec. (c). Act June 3, 1939, amended first sentence generally.

1938—Act of Feb. 3, 1938, generally provisions of subsecs. (a)—(p) amended.

1935—Act Aug. 23, 1935, inserted in last sentence "property" before "project".

Retroactive Effect of 1954 Amendment to Subsec. (i)

Amendment to subsec. (i) of this section by act Aug. 2, 1954, as not applicable in any case where the mortgage involved was insured or the commitment for the insurance was issued prior to Aug. 2, 1954, see note under section 1710 of this title.

Transfer of Functions

"Commissioner" was substituted for "Administrator" by section 122 of act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

Separability of Provisions

Separability of act Mar. 28, 1941, see Separability of Provisions note under section 1736 of this title.

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Section 107(g) of Pub. L. 88-560, as amended by Pub. L. 90-19, § 21(a), May 25, 1967, 81 Stat. 25, provided that if the Secretary of Housing and Urban Development determined that it would be inequitable to apply the provisions of the National Housing Act as amended by section 107 [amendments to sections 1713(c)(3), 1715e(b)(2), 1715k(d)(3)(B)(iii), 1715l(d)(3)(ii), (4)(ii), 1715v(c)(2), and 1748h-2(f) of this title] to a project which had been submitted for his consideration prior to Sept. 2, 1964, such provisions could be applied to such project without regard to the amendments made by section 107 [amendments to such sections].

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (c)(3) of this section, see section 1709-1 of this title.

CROSS REFERENCES

Establishment of General Insurance Fund, see section 1735c of this title.

Misdemeanor defined, see section 1 of Title 18, Crimes and Criminal Procedure.

Reference in this section—

Construed to refer to General Insurance Fund, see section 1715k of this title.

Construed to refer to section 1743, see section 1743 of this title.

Construed to refer to section 1744, see section 1744 of this title.

Construed to refer to section 1748b, see section 1748b of this title.

Construed to refer to section 1750g, see section 1750g of this title.

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 1464, 1709-1, 1710, 1715c, 1715e, 1715k, 1715*l*, 1715n, 1715r, 1715v, 1715w, 1715x, 1715y, 1715z-3, 1715z-6, 1715z-7, 1723e, 1731b, 1735, 1743, 1744, 1748b, 1748h-2, 1749aa, 1749hh, 1749aaa-2, 1750g of this title; title 29 section 773; title 42 sections 1594a, 3041e.

§ 1714. Taxation

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Secretary under this subchapter from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title II, § 208, 48 Stat. 1252; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 22; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1938—Act Feb. 3, 1938, corrected error in spelling of "subdivision".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1715. Statistical and economic surveys

The Secretary shall cause to be made in connection with the insurance programs such statistical surveys and legal and economic studies as he shall deem useful to guide the development of housing and the creation of a sound mortgage market in the United States, and shall publish from time to time the results of such surveys and studies. Expenses of such studies and surveys, and expenses of publication and distribution of the results of such studies and surveys, shall be charged as a general expense of such insurance fund or funds, as the Secretary shall determine.

(June 27, 1934, ch. 847, title II, § 209, 48 Stat. 1252; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 22; Mar. 28, 1941, ch. 31, § 4(c), 55 Stat. 62; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; June 30, 1961, Pub. L. 87-70, title VI, § 612(d), 75 Stat. 181; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(f), 79 Stat. 504; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (f), 81 Stat. 17, 18.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing and inserted "in connection with the insurance programs" following "made", respectively.

1965—Pub. L. 89-117 struck out "or account or accounts," following "fund or funds,".

1961—Pub. L. 87-70 substituted "shall be charged as a general expense of such insurance fund or funds, or account or accounts, as the Commissioner shall determine" for "shall be charged as a general expense of the Fund, the Housing Fund, and the Defense Housing Insurance Fund in such proportion as the Commissioner shall determine".

1941—Act Mar. 28, 1941, substituted "Fund, the Housing Fund, and the Defense Housing Insurance Fund" for "Fund and the Housing Fund".

1938—Act Feb. 3, 1938, added after "Fund" the words, "and the Housing Fund in such proportion as the Administrator shall determine".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

CROSS REFERENCES

General Insurance Fund, establishment of, see section 1735c of this title.

§ 1715a. Repealed. June 3, 1939, ch. 175, § 13, 53 Stat. 807

Section, act June 27, 1934, ch. 847, title II, § 210, as added by act Feb. 3, 1938, ch. 13, § 3, 52 Stat. 22, related to additional housing insurance.

APPLICATIONS PRIOR TO REPEAL

Section 13 of act June 3, 1939, which repealed this section, also provided: "That the Administrator is authorized to insure under said section (this section) any mortgage for the insurance of which an application has been filed with him prior to the effective date of this act."

§ 1715b. Rules and regulations

The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this subchapter.

(June 27, 1934, ch. 847, title II, § 211, as added Feb. 3, 1938, ch. 13, § 3, 52 Stat. 23, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 77d.

§ 1715c. Labor standards

(a) The Secretary shall not insure under section 1713 or section 1715a of this title or under section 1743 of this title pursuant to any application for insurance filed subsequent to the effective date of this section, or under section 1715e of this title, or under subchapter VII of this chapter pursuant to any application filed subsequent to sixty days after April 20, 1950, or under section 1748b or 1748h-2 of this title, or under section 1750g of this title, a mortgage or investment which covers property on which there is or is to be located a dwelling or dwellings, or a housing project, the construction of which was or is to be commenced subsequent to such date, unless the principal contractor files a certificate or certificates (at such times, in course of construction or otherwise, as the Secretary may prescribe) certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or the housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.], prior to the beginning of construction and after the date of the filing of the application for insurance. The provisions of this section shall also apply to the insurance of any loan or mortgage under section 1715k or section 1715x of this title which covers property on which there is located a dwelling or dwellings designed principally for residential use for twelve or more families. The provisions of this section shall apply to the insurance under section 1715*l* of this title of any mortgage described in subsection (d)(3) or (d)(4) and (deeming the term "construction" as used in the first sentence of this subsection to mean rehabilitation) of any mortgage described in subsection (h)(1) or section 1715z(j)(1) of this title which covers property on which there is located a dwelling or dwellings designed principally for residential use for more than eight families; except that compliance with such provisions may be waived by the Secretary—

(1) with respect to mortgages described in such subsection (d)(3) or (d)(4), in cases or classes of cases where laborers or mechanics (not otherwise employed at any time in the construction of the project) voluntarily donate their services without compensation for the purpose of lowering their housing costs in a cooperative housing project and the Secretary determines that any amounts saved thereby are fully credited to the cooperative undertaking the construction, and

(2) with respect to mortgages described in such subsection (h)(1) or section 1715z(j)(1) of this title, in cases or classes of cases where prospective owners of such dwellings, voluntarily donate their services without compensation, or other persons (not otherwise employed at any time in the rehabilitation of the property) voluntarily donate their services without compensation, and the Secretary determines that any amounts saved thereby are fully credited to the nonprofit organization undertaking the rehabilitation.

The provisions of this section shall also apply to the insurance of any mortgage under sections 1715v, 1715w, or 1715z-1 of this title except that compliance with such provisions may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the nonprofit corporation, association, or other organization undertaking the construction. The provisions of this section shall also apply to the insurance of any mortgage under section 1715y(d) of this title. The provisions of this section shall also apply to the insurance of any mortgage under section 1715z-7 of this title, except that compliance with such provisions may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the nonprofit corporation, association, or other organization undertaking the construction; and each laborer or mechanic employed on any facility covered by a mortgage insured under section 1715z-7 of this title shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be. The provisions of this section shall also apply to insurance under subchapter IX-A of this chapter with respect to laborers and mechanics employed in land development financed with the proceeds of any mortgage insured under that subchapter. The provisions of this section shall also apply to the insurance of any mortgage under subchapter IX-B of this chapter; and each laborer or mechanic employed on any facility covered by a mortgage insured under such subchapter IX-B shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be.

(b) The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(c) There is authorized to be appropriated for the remainder of the fiscal year ending June 30, 1939, and for each fiscal year thereafter, a sum sufficient to meet all necessary expenses of the Department of Labor in making the determinations provided for in subsection (a) of this section.

(June 27, 1934, ch. 847, title II, § 212, as added June 3, 1939, ch. 175, § 14, 53 Stat. 807, and amended May 26, 1942, ch. 319, § 10, 56 Stat. 303; Aug. 8, 1949, ch. 403, § 3, 63 Stat. 576; Apr. 20, 1950, ch. 94, title I, §§ 113, 122, 64 Stat. 54, 59; Sept. 1, 1951, ch. 378, title II, § 203, 65 Stat. 303; Aug. 2, 1954, ch. 649, title I, § 118, 68 Stat. 595; Sept. 23, 1959, Pub. L. 86-372, title I, § 110(f), title II, § 201(b), title VII, § 704(c), 73 Stat. 661, 667, 686; June 30, 1961, Pub. L. 87-70, title VI, § 612(e), 75 Stat. 181; July 2, 1964, Pub. L. 88-349, § 3, 78 Stat. 239; Sept. 2, 1964, Pub. L. 88-560, title I, § 119(b), 78 Stat. 782; Aug. 10, 1965, Pub. L. 89-117, title I, § 102(c), title II, § 201(b)(4), 79 Stat. 454, 465; Nov. 3, 1966, Pub. L. 89-754, title III, § 311, title V, § 503, 80 Stat. 1270, 1277; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title I, § 101(d), title II, § 201(b)(1), title XV, § 1502, 82 Stat. 484, 501, 600; Dec. 31, 1970, Pub. L. 91-609, title I, § 110(c), 84 Stat. 1772.)

References in Text

Section 1715a of this title, referred to in subsec. (a) which related to additional housing insurance, was repealed by section 13 of act June 3, 1939.

Effective date of this section, referred to in subsec. (a), probably means June 3, 1939, the date of enactment of act June 3, 1939.

The Davis-Bacon Act, as amended, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, which is classified to sections 276a to 276a-5 of Title 40, Public Buildings, Property, and Works.

Subsections (d)(3), (d)(4), and (h)(1), referred to in subsec. (a), are references to such subsections in section 1715*l* of this title.

Amendments

1970—Subsec. (a). Pub. L. 91-609 inserted in sixth sentence reference to other organization.

1968—Subsec. (a). Pub. L. 90-448 inserted references to sections 1715z(j)(1) and 1715z-1 of this title, and made the provisions of this section applicable to the insurance of mortgages under section 1715z-7 of this title, permitted waiver of compliance in cases or classes of cases where laborers or mechanics, not otherwise employed on the project, voluntarily donate their services without compensation for the purpose of lowering costs and savings are fully credited to the nonprofit corporation or association, and required payment of overtime to laborers or mechanics employed on facilities covered by a mortgage insured under section 1715z-7 of this title.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) and (b) of this section.

1966—Subsec. (a). Pub. L. 89-754 defined the term "construction" in the third sentence, made the provisions of this section applicable to mortgage described in subsec. (h)(1) covering property improved with residential dwellings for use by more than eight families, provided for waiver of requirement of compliance with respect to mortgages described in subsec. (d)(3) or (d)(4) and subsec. (h)(1), made the provisions of this section applicable to insurance of mortgage under subchapter IX-B of this chapter, and provided for overtime compensation for work on group practice facilities covered by mortgage insurance under such subchapter IX-B.

1965—Subsec. (a). Pub. L. 89-117 substituted "described in subsection (d)(3) or (d)(4)" for "described in subsection (d)(3) in the case of a cooperative or a limited profit mortgagor, or in subsection (d)(4) thereof", and applied the provisions of this section to insurance under subchapter IX-A of this chapter with respect to laborers and mechanics employed in land development financed with the proceeds of any mortgage insured under that subchapter.

1964—Subsec. (a). Pub. L. 88-560 added the sentence "The provisions of this section shall also apply to the insurance of any mortgage under section 1715y(d) of this title."

Pub. L. 88-349 inserted "in accordance with the Davis-Bacon Act, as amended".

1961—Subsec. (a). Pub. L. 87-70 made this section applicable to the insurance of mortgages under section 1715x of this title and to insurance under section 1715*l* of this title of mortgages described in subsec. (d)(3) thereof in the case of a cooperative or a limited profit mortgagor.

1959—Subsec. (a). Pub. L. 86-372 substituted "or under section 1748b or 1748h-2 of this title" for "or under subchapter VIII of this chapter", and inserted provisions making this section applicable to the insurance under section 1715 of this title of any mortgage described in subsection (d)(4) thereof, and to the insurance of any mortgage under section 1715v or 1715w of this title.

1954—Subsec. (a). Act Aug. 2, 1954, added sentence making section applicable to insurance of any mortgage under section 1715k of this title which covers property on which is located a dwelling or dwellings designed principally for residential use for twelve or more families.

1951—Subsec. (a). Act Sept. 1, 1951, inserted a reference to section 1750g of this title, after "subchapter VIII of this chapter,".

1950—Subsec. (a). Act Apr. 20, 1950, § 113, substituted "or under section 213 of this title, or under title VII pursuant to any application filed subsequent to sixty days after the date of enactment of the Housing Act of 1950, or under title VIII, a mortgage or investment" for "or under subchapter VIII of this chapter".

1949—Subsec. (a). Act Aug. 8, 1949, inserted ", or under subchapter VIII of this chapter" following "effective date of this section".

1942—Subsec. (a). Act May 26, 1942, inserted reference to section 1743 of this title.

Effective Date of 1964 Amendment

For effective date of amendment by Pub. L. 88-349, see section 4 of Pub. L. 88-349, set out as a note under section 276a of Title 40, Public Buildings, Property, and Works.

Transfer of Functions

"Commissioner" was substituted for "Administrator" by section 122 of act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

Enforcement of Labor Standards

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, set out in the Appendix to Title 5, Government Organization and Employees.

Cross References

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note under section 1743 of this title.

Rehabilitation and neighborhood conservation housing insurance, see section 1715k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715e, 1715n, 1715z-6, 1750b of this title; title 42 sections 1591a, 3310.

§ 1715d. Construction of dwellings or mobile home courts or parks in Alaska, Guam, and Hawaii; increased maximum for mortgage insurance; conditions and limitations

If the Secretary of Housing and Urban Development finds that, because of higher costs prevailing in Alaska, Guam, or Hawaii, it is not feasible to construct dwellings or mobile home courts or parks on property located in Alaska or in Guam or Hawaii without sacrifice of sound standards of construction, design, or livability, within the limitations as to maximum or maxima mortgage amounts provided in this chapter, the Secretary may, by regulations or otherwise, prescribe, with respect to dollar amount, a higher maximum or maxima for the principal obligation of mortgages insured under this chapter covering property located in Alaska or in Guam or Hawaii in such amounts as he shall find necessary to compensate for such higher costs but not to exceed, in any event, the maximum or maxima otherwise applicable (including increased mortgage amounts in geographical areas where cost levels so require) by more than one-half thereof. No mortgage with respect to a project or property in Alaska or in Guam or Hawaii shall be accepted for insurance under this chapter unless the Secretary finds that the project or property is an acceptable risk giving consideration to the acute housing shortage in Alaska or in Guam or Hawaii: *Provided*, That any such mortgage may be insured or accepted for insurance without regard to any requirement in any other section of this chapter that the Secretary find the project or property to be economically sound or an acceptable risk. Nowithstanding[1] any of the provisions of this chapter or any other law, the Alaska Housing Authority or the Government of Guam or Hawaii or any agency or instrumentality thereof shall be eligible as mortgagor or mortgagee, as the case may be, for any of the purposes of mortgage insurance under the provisions of this chapter. Upon application by the mortgagee (1) where the mortgagor is regulated or restricted pursuant to the last sentence of this section or (2) where the Alaska Housing Authority or the Government of Guam or Hawaii or any agency or instrumentality thereof is the mortgagor or mortgagee, for the insurance of a mortgage under any provisions of this chapter, the Secretary is authorized to insure the mortgage (including advances thereon where otherwise authorized), and to make commitments for the insuring of any such mortgages prior to the date of their execution or disbursement thereon, under such provision (and this section) without regard to any requirement that the mortgagor shall be the owner and occupant of the property or shall have paid a prescribed amount on account of such property. Without limiting the authority of the Secretary under any other provision of law, the Secretary is authorized, with respect to any mortgagor in such case (except where the Alaska Housing Authority is the mortgagor or mortgagee), to require the mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods or operation to such an extent and in such manner as the Secretary determines advisable to provide reasonable rentals and sales prices and a reasonable return on the investment.

(June 27, 1934, ch. 847, title II, § 214, as added Apr. 23, 1949, ch. 89, § 2(a), 63 Stat. 57, and amended Sept. 1, 1951, ch. 378, title VI, § 606, 65 Stat. 315; July 14, 1952, ch. 723, § 10(a)(3), 66 Stat. 603; June 30, 1953, ch. 170, § 25(a), (c), 67 Stat. 128; June 25, 1959, Pub. L. 86-70, § 10(c), 73 Stat. 142; Sept. 23, 1959, Pub. L. 86-372, title I, § 106, 73 Stat. 657; May 25, 1967, Pub. L. 90-19, § 1(a)(2), (3), 81 Stat. 17; Dec. 24, 1969, Pub. L. 91-152, title IV, § 418(e), 83 Stat. 402.)

CODIFICATION

Section is comprised of section 214 of act June 27, 1934, as added by section 2(a) of act Apr. 23, 1949, which in so far as Alaska and Hawaii individually are concerned, was, formerly, also set out as sections 484d, and 723 of Title 48, Territories and Insular Possessions and, insofar as Guam is concerned, is set out as section 1425 of Title 48. Section 2(b) of act Apr. 23, 1949, which was formerly classified to sections 484e, 724 and 1426 of Title 48, was repealed by act Aug. 2, 1954, ch. 649, title II, § 205, 68 Stat. 622.

AMENDMENTS

1969—Pub. L. 91-152 extended to mobile home courts or parks the special provisions applicable to properties located in Alaska, Guam, or Hawaii.

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" and "Secretary" for "Commissioner" wherever appearing, respectively.

1959—Pub. L. 86-372 inserted parenthetical phrase "(including increased mortgage amounts in geographical areas where cost levels so require)" following "maximum or maxima otherwise applicable".

Pub. L. 86-70 substituted "Alaska, Guam," for "the Territory of Alaska or in Guam".

1953—Act June 30, 1953, § 25(a), inserted "or Hawaii" after "Guam" wherever the latter appeared in this section.

Act June 30, 1953, § 25(c), substituted in fourth sentence "Upon application by the mortgagee (1) where the mortgagor is regulated or restricted pursuant to the last sentence of this section or (2)" for "Upon application by the mortgagee,"; and added sentence beginning "Without limiting the authority".

1952—Act July 14, 1952, inserted "or in Guam" following "Alaska" wherever appearing, inserted "or maxima" following "maximum," and inserted "or the Government of Guam or any agency or instrumentality thereof" following "Alaska Housing Authority" wherever appearing.

1951—Act Sept. 1, 1951, substituted "one-half" for "one-third" in first sentence.

TERMINATION OF PURCHASES OF OBLIGATIONS

No additional notes or obligations to be purchased after June 24, 1954, from funds appropriated pursuant to the Alaska Housing Act, as amended, which is classified, in part, to this section, see section 1701g-5 of this title, and "References in Text" note thereunder.

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with notes and other obligations purchased pursuant to the "Alaska Housing Act, as amended", which is classified, in part, to this section, see section 1701g-5 of this title, and "References in Text" note thereunder.

[1] So in original. Probably should read "Notwithstanding".

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of title 48.

CROSS REFERENCES

Mortgages on property in Alaska inapplicable to subchapter VIII of chapter 13 of this title, see section 1748e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1748e of this title.

§ 1715e. Cooperative housing insurance

(a) Projects insurable

In addition to mortgages insured under section 1713 of this title, the Secretary is authorized to insure mortgages as defined in section 1713(a) of this title (including advances on such mortgages during construction), which cover property held by—

(1) a nonprofit cooperative ownership housing corporation or nonprofit cooperative ownership housing trust, the permanent occupancy of the dwellings of which is restricted to members of such corporation or to beneficiaries of such trust;

(2) a nonprofit corporation or nonprofit trust organized for the purpose of construction of homes for members of the corporation or for beneficiaries of the trust; or

(3) a mortgagor, approved by the Secretary which (A) has certified to the Secretary, as a condition of obtaining the insurance of a mortgage under this section, that upon completion of the property or project covered by such mortgage it intends to sell such property or project to a nonprofit corporation or nonprofit trust of the character described in paragraph (1) of this subsection at the actual cost of such property or project as certified pursuant to section 1715r of this title and will faithfully and diligently make and carry out all reasonable efforts to consummate such sale, and (B) shall be regulated or restricted by the Secretary as to rents, charges, capital structure, rate of return, and methods of operation during any period while it holds the mortgaged property or project; and for such purpose the Secretary may make such contracts with, and acquire for not to exceed $100 such stock or interest in, any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulation, such stock or interest to be paid for out of the Cooperative Management Housing Insurance Fund and to be redeemed by such mortgagor at par upon the sale of such property or project to such nonprofit corporation or nonprofit trust;

which corporations or trusts referred to in paragraphs (1) and (2) of this subsection are regulated or restricted for the purposes and in the manner provided in paragraphs (1) and (2) of subsection (b) of section 1713 of this title: *Provided,* That as applied to mortgages the mortgage insurance for which is the obligation of the Management Fund, the reference to the General Insurance Fund in section 1713(b)(2) of this title shall be construed to refer to the Management Fund.

(b) Eligibility conditions for projects under subsection (a)(1) of this section

To be eligible for insurance under this section a mortgage on any property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of this section shall involve a principal obligation in an amount—

(1) Repealed. Pub. L. 93-383, title III, § 304(b), Aug. 22, 1974, 88 Stat. 678.

(2) not to exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $19,500 per family unit without a bedroom, $21,600 per family unit with one bedroom, $25,800 per family unit with two bedrooms, $31,800 per family unit with three bedrooms, and $36,000 per family unit with four or more bedrooms, and not to exceed 98 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed physical improvements are completed: *Provided,* That as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $22,500 per family unit without a bedroom, $25,200 per family unit with one bedroom, $30,900 per family unit with two bedrooms, $38,700 per family unit with three bedrooms, and $43,758 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design: *Provided further,* That the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by not to exceed 50 per centum in any geographical area where he finds that cost levels so require: *Provided further,* That in the case of a mortgagor of the character described in paragraph (3) of subsection (a) of this section the mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed physical improvements are completed: *And provided further,* That upon the sale of a property or project by a mortgagor of the character described in paragraph (3) of subsection (a) of this section to a nonprofit cooperative ownership housing corporation or trust within two years after the completion of such property or project the mortgage given to finance such sale shall involve a principal obligation in an amount not to exceed the maximum amount computed in accordance with this subsection without regard to the preceding proviso.

(c) Eligibility conditions for projects under subsection (a)(2) of this section

To be eligible for insurance under this section a mortgage on any property or project of a corporation or trust of the character described in paragraph (2) of subsection (a) of this section shall involve a principal obligation in an amount not to exceed a sum computed on the basis of a separate mortgage for each single-family dwelling (irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling or dwellings) comprising the property or project, equal to the total of each of the maximum principal obligations of such mortgages which would meet the requirements of section 1709(b)(2) of this title if the mortgagor were the owner and occupant who had made any required payment on account of the property prescribed in such paragraph.

(d) Amortization; release from mortgage lien; individual insurance; commercial and community facilities

Any mortgage insured under this section shall provide for complete amortization by periodic payments within such terms as the Secretary may prescribe but not to exceed forty years from the beginning of amortization of the mortgage, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 5¼ per centum per annum, on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release, and a mortgage on any project of a corporation or trust of the character described in paragraph (2) of subsection (a) of this section may provide that, at any time after the completion of the construction of the project, such mortgage may be replaced, in whole or in part, by individual mortgages covering each individual dwelling in the project in amounts not to exceed the unpaid balance of the blanket mortgage allocable to the individual property. Each such individual mortgage may be insured under this section. Property covered by a mortgage, insured under this section, on a property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of this section may include five or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants. Property held by a corporation or trust of the character described in paragraph numbered (2) of subsection (a) of this section which is covered by a mortgage insured under this section may include such community facilities, and property held by a mortgagor of the character described in paragraph numbered (3) of subsection (a) of this section which is covered by a mortgage insured under this section may include such commercial and community facilities, as the Secretary deems adequate to serve the occupants.

(e) Applicability of sections 1710 and 1713 of this title

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall be applicable to mortgages insured under this section except individual mortgages insured pursuant to subsection (d) of this section covering the individual dwellings in the project, and as to such individual mortgages the provisions of subsections (a), (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall be applicable: *Provided,* That as applied to mortgages or loans the insurance for which is the obligation of the Management Fund (1) all references to the General Insurance Fund shall be construed to refer to the Management Fund, and (2) all references to section 1713 of this title shall be construed to refer to subsections (a)(1), (a)(3) (if the project involved is acquired by a cooperative corporation), (i), and (j) of this section.

(f) Technical advice and assistance

The Secretary is authorized, with respect to mortgages insured or to be insured under this section, to furnish technical advice and assistance in the organization of corporations or trusts of the character described in subsection (a) of this section and in the planning, development, construction, and operation of their housing projects.

(g) Housing projects designed for single person occupancy

Nothing in this chapter shall be construed to prevent the insurance of a mortgage under this section covering a housing project designed for occupancy by single persons, and dwelling units in such a project shall constitute family units within the meaning of this section.

(h) Failure to sell to a nonprofit organization

In the event that a mortgagor of the character described in paragraph (3) of subsection (a) of this section obtains an insured mortgage loan pursuant to this section and fails to sell the property or project covered by such mortgage to a nonprofit housing corporation or nonprofit housing trust of the character described in paragraph (1) of subsection (a) of this section, the Secretary is authorized to refuse, for such period of time as he shall deem appropriate under the circumstances, to insure under this section any additional investor-sponsor type mortgage loans made to such mortgagor or to any other investor-sponsor mortgagor where, in the determination of the Secretary, any of its stockholders were identified with such mortgagor.

(i) Mortgages executed by consumer cooperatives covering existing structures

Nothing in this chapter shall be construed to prevent the insurance of a mortgage executed by a mortgagor of the character described in paragraph (1) of subsection (a) of this section covering property upon which dwelling units and related facilities have been constructed prior to the filing of the application for mortgage insurance hereunder: *Provided,* That the Secretary determines that the consumer interest is protected and that the mortgagor will be a consumer cooperative. In the case of properties other than new construction, the limitations in this section upon the amount of the

mortgage shall be based upon the appraised value of the property for continued use as a cooperative rather than upon the Secretary's estimate of the replacement cost. As to any project on which construction was commenced after September 23, 1959, the mortgage on such project shall be eligible for insurance under this section only in those cases where the construction was subject to inspection by the Secretary and where there was compliance with the provisions of section 1715c of this title. As to any project on which construction was commenced prior to September 23, 1959, such inspection, and compliance with the provisions of section 1715c of this title, shall not be a prerequisite.

(j) Insurance of supplementary cooperative loans

(1) With respect to any property covered by a mortgage insured under this section (or any cooperative housing project covered by a mortgage insured under section 1713 of this title as in effect prior to April 20, 1950), the Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure and to insure supplementary cooperative loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. The Secretary is further authorized to make commitments to insure and to insure supplementary cooperative loans (including advances during construction or improvement) with respect to any property purchased from the Federal Government by a nonprofit corporation or trust of the character described in paragraph (1) of subsection (a) of this section, if the property is covered by an uninsured mortgage representing a part of the purchase price. As used in this subsection "supplementary cooperative loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made for the purpose of financing any of the following:

(A) Improvements or repairs of the property covered by such mortgage;

(B) Community facilities necessary to serve the occupants of the property; or

(C) Cooperative purchases and resales of memberships in order to provide necessary refinancing for resales of memberships which involve increases in equity; but in such resales by the cooperative the downpayments by the new members shall not be less than those made on the original sales of such memberships.

(2) To be eligible for insurance under this subsection, a supplementary cooperative loan shall—

(A) be limited to an amount which, when added to the outstanding mortgage indebtedness on the property, creates a total outstanding indebtedness which does not exceed the original principal obligation of the mortgage; except that, in the case of improvements or additional community facilities, the outstanding indebtedness may be increased by an amount equal to 97 per centum of the amount which the Secretary estimates will be the value of such improvements or facilities, and the new outstanding indebtedness may exceed the original principal obligation of the mortgage if such new outstanding indebtedness does not exceed the limitations imposed by subsection (b) of this section;

(B) have a maturity satisfactory to the Secretary but not to exceed the remaining term of the mortgage; except that, in the case of repairs or improvements to a property covered by an uninsured mortgage dated more than twenty years prior to the date of the commitment to insure, of such magnitude that the Secretary deems them to be a major rehabilitation or modernization of such property, the loan may have a maturity date up to ten years in excess of the remaining term of the uninsured mortgage;

(C) be secured in such manner as the Secretary may require;

(D) contain such other terms, conditions, and restrictions as the Secretary may prescribe; and

(E) represent the obligation of a borrower of the character described in paragraph (1) of subsection (a) of this section.

(k) Cooperative Management Housing Insurance Fund

There is hereby created a Cooperative Management Housing Insurance Fund (hereinafter referred to as the "Management Fund"). The Management Fund shall be used by the Secretary as a revolving fund for carrying out the provisions of this section with respect to mortgages or loans insured, on or after August 10, 1965, under subsections (a)(1), (a)(3) (if the project is acquired by a cooperative corporation), (i), and (j) of this section. The Management Fund shall also be used as a revolving fund for mortgages, loans, and commitments transferred to it pursuant to subsection (m) of this section. The Secretary is directed to transfer to the Management Fund from the General Insurance Fund an amount equal to the total of the premium payments theretofore made with respect to the insurance of mortgages and loans transferred to the Management Fund pursuant to subsection (m) of this section minus the total of any administrative expenses theretofore incurred in connection with such mortgages and loans, plus such other amounts as the Secretary determines to be necessary and appropriate. General expenses of operation of the Department of Housing and Urban Development relating to mortgages or loans which are the obligation of the Management Fund may be charged to the Management Fund.

(l) General Surplus Account; Participating Reserve Account

The Secretary shall establish in the Management Fund, as of August 10, 1965, a General Surplus Account and a Participating Reserve Account. The aggregate net income thereafter received or any net loss thereafter sustained by the Management Fund, in any semiannual period, shall be credited or charged to the General Surplus Account or the Participating Reserve Account or both in such manner and amounts as the Secretary may determine to be in accord with sound actuarial and accounting practice. Upon termination of the insurance obligation of the Management Fund by payment of any mortgage or loan insured under this section, and at such time or times prior to such termination as the Secretary may determine,

the Secretary is authorized to distribute to the mortgagor or borrower a share of the Participating Reserve Account in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice: *Provided,* That in no event shall the amount of the distributable share exceed the aggregate scheduled annual premiums of the mortgagor or borrower to the year of payment of the share less the total amount of any share or shares previously distributed by the Secretary to the mortgagor or borrower: *And provided further,* That in no event may a distributable share be distributed until any funds transferred from the General Insurance Fund to the Management Fund pursuant to subsection (o) of this section have been repaid in full to the General Insurance Fund. No mortgagor, mortgagee, borrower, or lender shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Management Fund. The determination of the Secretary as to the amount to be paid by him to any mortgagor or borrower shall be final and conclusive.

(m) Transfer of insurance to Management Fund

The Secretary is authorized to transfer to the Management Fund commitments for insurance issued under subsections (a)(1), (i), and (j) of this section prior to August 10, 1965, and to transfer to the Management Fund the insurance of any mortgage or loan insured prior to August 10, 1965, under subsection (a)(1), (a)(3) (if the project is acquired by a cooperative corporation), (i), or (j) of this section: *Provided,* That the insurance of any mortgage or loan shall not be transferred under the provisions of this subsection if on August 10, 1965, the mortgage or loan is in default and the mortgagee or lender has notified the Secretary in writing of its intention to file an insurance claim. Any insurance or commitment not so transferred shall continue to be an obligation of the General Insurance Fund.

(n) Payment of premium charges in debentures

Notwithstanding the limitations contained in other provisions of this chapter, premium charges for mortgages or loans the insurance of which is the obligation of either the Management Fund or the General Insurance Fund may be payable in debentures issued in connection with mortgages or loans transferred to the Management Fund or in connection with mortgages or loans insured pursuant to commitments transferred to the Management Fund, as provided in subsection (m) of this section. Premium charges on the insurance of mortgages or loans transferred to the Management Fund or insured pursuant to commitments transferred to the Management Fund may be payable in debentures which are the obligation of either the Management Fund or the General Insurance Fund.

(o) Transfer of funds between Management Fund and General Insurance Fund; investment of monies

Notwithstanding any other provision of this chapter the Secretary is authorized to transfer funds between the Cooperative Management Housing Insurance Fund and the General Insurance Fund in such amounts and at such times as he may determine, taking into consideration the requirements of each such Fund, to assist in carrying out effectively the insurance programs for which such Funds were respectively established. Moneys in the Cooperative Management Housing Insurance Fund not needed for current operations of the fund shall be deposited with the Treasurer of the United States to the credit of the Cooperative Management Housing Insurance Fund or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States or any agency of the United States: *Provided,* That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures which are the obligations of the Cooperative Management Housing Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this subsection. Debentures so purchased shall be canceled and not reissued.

(June 27, 1934, ch. 847, title II, § 213, as added Apr. 20, 1950, ch. 94, title I, § 114, 65 Stat. 54, and amended Oct. 26, 1951, ch. 577, § 4, 65 Stat. 648; June 30, 1953, ch. 170, § 6, 67 Stat. 123; Aug. 2, 1954, ch. 649, title I, §§ 119, 120, 68 Stat. 595; Aug. 11, 1955, ch. 783, title I, § 102(c)–(e), 69 Stat. 635; Aug. 7, 1956, ch. 1029, title I, § 105, 70 Stat. 1094; July 12, 1957, Pub. L. 85–104, title I, § 112, 71 Stat. 297; Sept. 23, 1959, Pub. L. 86–372, title I, §§ 105, 116(b), 73 Stat. 655, 664; June 30, 1961, Pub. L. 87–70, title VI, § 608, 75 Stat. 179; Sept. 2, 1964, Pub. L. 88–560, title I, §§ 107(b), 109(a), 78 Stat. 774, 777; Aug. 10, 1965, Pub. L. 89–117, title II, §§ 207(b), 208, title XI, § 1108(g), 79 Stat. 467–469, 505; Nov. 3, 1966, Pub. L. 89–754, title III, §§ 303, 304, 80 Stat. 1266, 1267; May 25, 1967, Pub. L. 90–19, § 1(a)(1), (3), (4), 81 Stat. 17; May 7, 1968, Pub. L. 90–301, § 3(c), 82 Stat. 114; Aug. 1, 1968, Pub. L. 90–488, title III, § 313, title XVII, § 1722(e), 82 Stat. 511, 610; Dec. 24, 1969, Pub. L. 91–152, title I, § 113(c), 83 Stat. 383; Dec. 31, 1970, Pub. L. 91–609, title I, § 117(b), 84 Stat. 1774; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 303(b), 304 (b), (c), 311(b), 88 Stat. 677, 678, 683; Dec. 23, 1975, Pub. L. 94–173, § 3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94–375, § 8(a), (b)(2), 90 Stat. 1071.)

AMENDMENTS

1976—Subsec. (b)(2). Pub. L. 94–375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "$19,500" for "$13,000", "$21,600" for "$18,000", "$25,800" for "$21,500", "$31,800" for "$26,500", "$36,000" for "$30,000", "$22,500" for "$15,000", "$25,200" for "$21,000", "$30,900" for "$25,750", "$38,700" for "$32,250", and "$43,758" for "$36,465".

1975—Subsec. (b)(2). Pub. L. 94–173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (b)(1). Pub. L. 93–383, § 304(b), struck out subsec. (b)(1) which set forth limits on principal obligation of not to exceed $20,000,000, or not to exceed $25,000,000 if mortgage is executed by a mortgagor regulated under Federal, State, local laws.

Subsec. (b)(2), Pub. L. 93-383, §§ 303(b), 311(b), substituted "$13,000" for "$9,900", "$15,000" for "$11,550", "$18,000" for "$13,750", "$21,000" for "$16,500", "$21,500" for "$16,500", "$25,750" for "$19,800", "$26,500" for "$20,350", "$30,000" for "$23,100", "$32,250" for "$24,750", "$36,465" for "$28,050", and "98 per centum" for "97 per centum".

Subsec. (c). Pub. L. 93-383, § 304(c), struck out "not to exceed $12,500,000 and" following "an amount".

1970—Subsec. (*o*). Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of monies in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1969—Subsec. (b)(2). Pub. L. 91-152 substituted "$9,900" for "$9,000", "$11,550" for "$10,500", "$13,750" for "$12,500", "$16,500" for "$15,000" wherever appearing therein, "$19,800" for "$18,000", "$20,350" for "$18,500", "$23,100" for "$21,000", "$24,750" for "$22,500", and "$28,050" for "$25,500".

1968—Subsec. (d). Pub. L. 90-301 substituted provisions limiting interest rate on mortgages to such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market for former provisions limiting the rate to 5¾ per centum per annum on individual mortgages covering individual dwellings in the project.

Subsec. (j)(1). Pub. L. 90-448, § 313(1), authorized the Secretary to make commitments to insure and to insure supplementary cooperative loans with respect to any property purchased from the Federal Government by a nonprofit corporation or trust of the character described in subsec. (a) (1) of this section, if the property is covered by an uninsured mortgage representing a part of the purchase price.

Subsec. (j)(2)(B). Pub. L. 90-448, § 313(2), permitted the loan to have a maturity date up to ten years in excess of the remaining term of the uninsured mortgage in the case of repairs or improvements to a property covered by an uninsured mortgage dated more than twenty years prior to the date of the commitment to insure, of such magnitude that the Secretary deems them to be a major rehabilitation or modernization of such property.

Subsec. (*o*). Pub. L. 90-448, § 1722(e), required deposit with the Treasurer or investment in bonds or other obligations of, or in bonds or obligations guaranteed as to principal and interest by, the United States, of moneys in the Cooperative Management Housing Insurance Fund not needed for current operations of the fund, authorized purchase in the open market of debentures which are obligations of the fund, and directed that debentures so purchased be canceled and not reissued.

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (a)(3), (b)(2), (d), (f), (h), (i), (j)(1), (2)(B), (C), (k) to (m), and (*o*) of this section.

Subsec. (i). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's".

Subsec. (k). Pub. L. 90-19, § 1(a)(1), substituted "Department of Housing and Urban Development" for "Federal Housing Administration".

1966—Subsec. (j)(2)(A). Pub. L. 89-754, § 304, provided that, in the case of improvements or additional community facilities, the outstanding indebtedness may be increased by an amount equal to 97 per centum of the amount which the Secretary estimates will be the value of such improvements or facilities, and the new outstanding indebtedness may exceed the original principal obligation of the mortgage if such new outstanding indebtedness does not exceed the limitations imposed by subsec. (b) of this section.

Subsec. (k). Pub. L. 89-754, § 303(c)(1), directed the Secretary rather than the Commissioner to transfer to the Management Fund from the General Insurance Fund an amount equal to the total of the premium payments theretofore made with respect to the insurance of mortgages and loans transferred to the Management Fund pursuant to subsec. (m) of this section minus the total of any administrative expenses theretofore incurred in connection with such mortgages and loans.

Subsec. (*l*). Pub. L. 89-754, § 303(c)(2), struck out reference to subsec. (k) in the second proviso.

Subsec. (m). Pub. L. 89-754, § 303(a), struck out preceding the proviso ", but only in cases where the consent of the mortgagee or lender to the transfer is obtained or a request by the mortgagee or lender for the transfer is received by the Commissioner within such period of time after August 10, 1965, as the Commissioner shall prescribe".

Subsec. (n). Pub. L. 89-754, § 303(b), substituted "the insurance of which is the obligation of either the Management Fund or the General Insurance Fund" for "insured under this section and sections 1713, 1715v and 1715w of this title" and added provision for payment of premium charges on the insurance of mortgages or loans transferred to the Management Fund or insured pursuant to commitments transferred to the Management Fund in debentures which are the obligation of either the Management Fund or the General Insurance Fund.

1965—Subsec. (a). Pub. L. 89-117, §§ 208(b)(1), 1108(g)(1), added the proviso construing the reference to the General Insurance Fund in section 1713(b)(2) of this title as a reference to the Management Fund and substituted "Cooperative Management Fund and substituted "Cooperative Management Housing Insurance Fund" for "Housing Fund" in par. (3).

Subsec. (b)(2). Pub. L. 89-117, § 207(b)(1), substituted "$18,500 per family unit with three bedrooms, and $21,000 per family unit with four or more bedrooms" for "and $18,500 per family unit with three or more bedrooms" and "$22,500 per family unit with three bedrooms, and $25,500 per family unit with four or more bedrooms" for "and $22,500 per family unit with three or more bedrooms".

Subsec. (c). Pub. L. 89-117, § 207(b)(2), deleted the limitation which prohibited the principal obligation from exceeding a sum equal to the maximum amount which does not exceed either of the limitations on the amount of the principal obligations of the mortgage prescribed by par. (2) of subsec. (b) of this section.

Subsec. (e). Pub. L. 89-177, §§ 208(b)(2), 1108(g)(2), added the proviso construing all references to the General Insurance Fund as references to the Management Fund and all references to section 1713 of this title as references to subsecs. (a)(1), (a)(3), (l) and (j) of this section and eliminated reference to subsecs. (m) and (p) of section 1713 of this title.

Subsecs. (k) to (*o*). Pub. L. 89-117, § 208(a), added subsecs. (k) to (*o*).

1964—Subsec. (b)(2). Pub. L. 88-560, § 107(b), changed limits on mortgages for property or project attributable to dwelling use from "$2,500 per room (or $9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "$9,000 per family unit without a bedroom, $12,500 per family unit with one bedroom, $15,000 per family unit with two bedrooms, and $18,500 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of $2,500 per room to not exceed $3,000 per room and the dollar amount limitation of $9,000 per family unit to not exceed $9,400 per family unit" to dollar amount limitations "per family unit to not to exceed $10,500 per family unit without a bedroom, $15,000 per family unit with one bedroom, $18,000 per family unit with two bedrooms, and $22,500 per family unit with three or more bedrooms", and substituted provision authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such an increase "by not to exceed $1,250 per room without regard to the number of rooms being less than four, or four or more".

Subsec. (j)(1). Pub. L. 88-560, § 109(a), added clause (C).

1961—Subsec. (b)(2). Pub. L. 87-70, § 608(a)(1), inserted the parenthetical phrase "(excluding exterior land improvements as defined by the Commissioner)".

Subsec. (d). Pub. L. 87-70, § 608(a)(2), substituted "five or more family units" for "eight or more family units".

Subsec. (h). Pub. L. 87-70, § 608(a)(3), substituted "the Commissioner is authorized to refuse, for such period of time as he shall deem appropriate under the circumstances, to insure under this section any additional investor-sponsor type mortgage loans made to such mortgagor or to any other investor-sponsor mortgagor where, in the determination of the Commissioner, any of its stockholders were identified with such mortgagor" for "such mortgagor shall not thereafter be eligible by reason of such paragraph (3) for insurance of any additional mortgage loans pursuant to this section".

Subsec. (j). Pub. L. 87-70, § 608(b), added subsec. (j).

1959—Subsec. (b)(1). Pub. L. 86-372, § 105(a), substituted "$20,000,000" for "$12,500,000".

Subsec. (b)(2). Pub. L. 86-372, § 105(b), increased the mortgage limits per room from $2,250 to $2,500 and per family unit from $8,100 to $9,000 for elevator type structures from $2,700 to $3,000 per room and from $8,400 to $9,400 per family unit, the maximum amount of the loan from 90 per centum to 97 per centum of the replacement cost and in the case of a mortgagor of the character described in subsec. (a)(3) of this section from 85 per centum to 90 per centum of the replacement cost, changed the authorization of the Commissioner to increase the dollar amount limitation per room where cost levels so require by increasing the room limit from $1,000 to $1,250, and eliminated provisions which authorized a loan of 95 per centum of the replacement cost if 50 per centum of the membership consisted of veterans.

Subsec. (d). Pub. L. 86-372, § 105(c), (d), substituted "5¼ per centum" for "4½ per centum" and "5¾ per centum", for "5 per centum", and inserted provisions permitting property held by a corporation or trust of the character described in subsec. (a)(2) of this section which is covered by a mortgage insured under this section to include such community facilities, and property held by a mortgagor of the character described in subsec. (a)(3) of this section which is covered by a mortgage insured under this section to include such commercial and community facilities, as the Commissioner deems adequate to serve the occupants.

Subsec. (e). Pub. L. 86-372, § 116(b), inserted reference to subsec. (k) of section 1710 of this title.

Subsec. (i). Pub. L. 86-372, § 105(e), added subsec. (i).

1957—Subsec. (e). Pub. L. 85-104 substituted "(h), and (j) of section 1710 of this title" for "and (h) of section 1710 of this title".

1956—Subsec. (a). Act Aug. 7, 1956, § 105(a), eliminated "or" at the end of par. (1), inserted "or" at the end of par. (2), added par. (3), and inserted "referred to in paragraphs (1) and (2) of this subsection" after "which corporations or trusts" in provisions following par. (3).

Subsec. (b)(2). Act Aug. 7, 1956, § 105(b), substituted "50 per centum" for "65 per centum", inserted for purposes of defining "veteran"; service from Apr. 6, 1917, to Nov. 12, 1918, substituted service prior to Feb. 1, 1955, for former provision leaving determination of date to President, and added provision authorizing Commissioner to increase dollar limits per room by not to exceed $1,000 per room.

Subsec. (h). Act Aug. 7, 1956, § 105(c), added subsec. (h).

1955—Subsec. (b)(1). Act Aug. 11, 1955, § 102(c), increased from $5,000,000 to $12,500,000 the limitation on the maximum amount of a mortgage.

Subsec. (b)(2). Act Aug. 11, 1955, § 102(d), provided that the maximum amount of a mortgage to be insured may be determined on the basis of estimated replacement cost.

Subsec. (c). Act Aug. 11, 1955, § 102(c), increased from $5,000,000 to $12,500,000 the limitation on the maximum amount of a mortgage.

Subsec. (d). Act Aug. 11, 1955, § 102(e), authorized mortgage insurance for structures consisting of eight or more family units.

1954—Subsec. (b)(1). Act Aug. 2, 1954, § 119(a), permitted insured cooperative housing mortgages to be as high as $25,000,000 in amount if the mortgagor cooperative is regulated or supervised by Federal or State law as to rents, charges, and methods of operations.

Subsec. (b)(2). Act Aug. 2, 1954, amended generally par. (2) to:

1. Change, with respect to nonveteran projects, the per family or per room mortgage amount limitations from $8,100 per family unit or $1,800 per room, to $2,250 per room and with a per family unit limitation of $8,100 applicable only if the number of rooms is less than four;

2. Provide for changing from a cost basis to a valuation basis;

3. Change the basis for allowing increases for veteran membership so that in all cases such increases would be made only if 65 per cent of members are veterans, instead of making such increases on the basis of percentage allowances for percentage of veteran membership; and

4. Authorize an increase to the per room and per family mortgage amount limitation for elevator-type structures.

Subsec. (c)(1). Act Aug. 2, 1954, § 119(b), with respect to the reference to section 1709(b)(2) of this title, eliminated the reference to "paragraph (A), paragraph (C), or paragraph (D)" of the section, the paragraph designations having been eliminated by another section of the same act.

Subsec. (f). Act Aug. 2, 1954, § 120, struck out the sentence providing for the appointment of an Assistant Commissioner.

1953—Subsec. (d). Act June 30, 1953, substituted, in first sentence, "4½ per centum per annum, except that individual mortgages insured pursuant to this subsection covering the individual dwellings in the project may bear interest at not to exceed 5 per centum per annum," for "4 per centum per annum".

1951—Subsec. (b)(2). Act Oct. 26, 1951, struck out "of World War II" wherever appearing and added proviso thus making section applicable to veterans of Korean war.

SPECIAL ASSISTANT FOR COOPERATIVE HOUSING

Section 102(h) of act Aug. 11, 1955, as amended by Pub.L. 89-754, title X § 1020(h), Nov. 3, 1966, 80 Stat. 1296; Pub. L. 94-375, § 18, Aug. 3, 1976, 90 Stat. 1077, provided that: "In the performance of, and with respect to, the functions, powers, and duties vested in him by section 213 of the National Housing Act [this section], section 221(d)(3), section 235, section 236, section 241, section 243, section 246, and section 203(n) of the National Housing Act [sections 1715*l*(d)(3), 1715z, 1715z-1, 1715z-6, 1715z-8, 1715z-11, and 1709(n) of this title], and section 101 of the Housing and Urban Development Act of 1965 [section 1701s of this title] or section 8 of the United States Housing Act of 1937 [section 1437f of title 42], (insofar as the provisions of such sections relate to cooperative housing), the Secretary of Housing and Urban Development, notwithstanding the provisions of any other law, shall appoint a Special Assistant for Cooperative Housing, and provide the Special Assistant with adequate staff, whose sole responsibility will be to expedite operations under such sections and to eliminate obstacles to the full utilization of such sections under the direction and supervision of the Commissioner and Assistant Secretary for Housing Management. The person so appointed shall be fully sympathetic with the purposes of such sections."

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPT. 2, 1964

Equitable application of amendment to subsec. (b)(2) of this section by section 107(b) of Pub. L. 88-560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g)

of Pub. L. 88-560, set out as a note under section 1713 of this title.

MAXIMUM INTEREST RATES UNTIL June 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (d) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709-1, 1710, 1715c, 1715m, 1715q, 1715r, 1715y, 1715z, 1715z-6, 1717, 1720, 1723e, 1731b, 1735c of this title.

§ 1715f. Process of applications and issuance of commitments

The Secretary is authorized to process applications and issue commitments with respect to insurance of mortgages under section 1706c of this title and subchapters II, VI, VIII, or X of this chapter, even though the permanent mortgage financing may not be insured under this chapter, and in the event the mortgage is not so insured the Secretary is authorized to charge an additional application fee determined by him to be reasonable. The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(June 27, 1934, ch. 847, title II, § 215, as added Apr. 20, 1950, ch. 94, title I, § 115, 64 Stat. 56, and amended Sept. 1, 1951, ch. 378, title II, § 204, 65 Stat. 303; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1951—Act Sept. 1, 1951, inserted a reference to subchapter X of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1591a.

§ 1715g. Insurance of mortgage where mortgagor is not occupant of property

The Secretary is hereby authorized to insure any mortgage otherwise eligible for insurance under any of the provisions of this chapter without regard to any requirement that the mortgagor be the occupant of the property at the time of insurance, where the Secretary is satisfied that the inability of the mortgagor to occupy the property is by reason of his entry on active duty in a uniformed service subsequent to the filing of an application for insurance and the mortgagor expresses an intent to occupy the property upon his release from active duty.

(June 27, 1934, ch. 847, title II, § 216, as added Sept. 1, 1951, ch. 378, title VI, § 607, 65 Stat. 315, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Dec. 31, 1970, Pub. L. 91-621, § 7(a), 84 Stat. 1865.)

AMENDMENTS

1970—Pub. L. 91-621 substituted "on active duty in a uniformed service" and "release from active duty" for "into military service" and "discharge from military service".

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

§ 1715h. General insurance authorization; termination date

Except with respect to the insurance of a loan or mortgage pursuant to section 1703, 1715*l*, 1715z, 1715z-1 of this title, subchapter VIII, IX-A, or IX-B of this chapter (subject to any limitations thereunder on the time of such insurance), no loan or mortgage shall be insured under any provision of this chapter after June 30, 1977, except pursuant to a commitment to insure before that date.

(June 27, 1934, ch. 847, title II, § 217, as added Sept. 1, 1951, ch. 378, title VI, § 607, 65 Stat. 315, and amended July 14, 1952, ch. 723, § 2, 66 Stat. 601; June 30, 1953, ch. 170, § 7, 67 Stat. 123; Aug. 2, 1954, ch. 649, title I, § 121, 68 Stat. 596; Mar. 11, 1955, ch. 10, 69 Stat. 11; Aug. 11, 1955, ch. 783, title I, § 102(f), 69 Stat. 636; Aug. 7, 1956, ch. 1029, title I, § 106, 70 Stat. 1094; June 4, 1958, Pub. L. 85-442, 72 Stat. 176; Sept. 23, 1959, Pub. L. 86-372, title I, § 107, 73 Stat. 657; May 25, 1961, Pub. L. 87-38, 75 Stat. 85; June 30, 1961, Pub. L. 87-70, title VI, § 604(c), 75 Stat. 177; Aug. 10, 1965, Pub. L. 89-117, title II, § 202(b), 79 Stat. 465; Sept. 30, 1969, Pub. L. 91-78, § 2(b), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title I, § 101(b), 83 Stat. 379; Oct. 2, 1970, Pub. L. 91-432, § 1(b), 84 Stat. 886; Oct. 21, 1970, Pub. L. 91-473, § 1(b), 84 Stat. 1064; Dec. 1, 1970, Pub. L. 91-525, § 1(b), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91-609, title I, § 101(b), 84 Stat. 1770; Oct. 18, 1972, Pub. L. 92-503, § 1(b), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93-85, § 1(b), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93-117, § 1(b), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93-383, title III, § 316(b), 88 Stat. 685.)

AMENDMENTS

1974—Pub. L. 93-383 substituted "June 30, 1977" for "October 1, 1974".

1973—Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Pub. L. 91-609 substituted "October 1, 1972" for "January 1, 1971".

Pub. L. 91-525 substituted "January 1, 1971" for "December 1, 1970".

Pub. L. 91-473 substituted "December 1, 1970" for "November 1, 1970".

Pub. L. 91-432 substituted "November 1, 1970" for "October 1, 1970".

1969—Pub. L. 91-152 inserted references to sections 1715z and 1715z-1 of this title and subchapter IX-B of this chapter, and substituted "October 1, 1970" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

1965—Pub. L. 89-117 substituted "title VIII, or title X" for "title VIII", which for purpose of codification, has been changed to "subchapters VIII or IX-A of this chapter", and "October 1, 1969" for "October 1, 1965".

1961—Pub. L. 87-70 amended section generally by substituting provisions prohibiting insurance of mortgages or loans, except with respect to the insurance of loans or mortgages pursuant to section 1703 or 1715*l* of this title or subchapter VIII of this chapter, after Oct. 1, 1965, for provisions which related to the consolidation of mortgage insurance authorizations.

Pub. L. 87-38 increased the mortgage insurance authorization from $15,000,000,000 to $16,000,000,000.

1959—Pub. L. 86-372 increased the mortgage insurance authorization from $7,000,000,000 to $15,000,000,000, and inserted paragraph prohibiting

the Commissioner from entering into agreements or other undertakings to insure a mortgage if a commitment to insure such mortgage would be unlawful under the limit established.

1958—Pub. L. 85-442 substituted "$7,000,000,000" for "$3,000,000,000".

1956—Act Aug. 7, 1956, substituted in the first sentence, "July 1, 1956" for "July 1, 1955", and "$3,000,000,000" for "$4,000,000,000", and substituting "section 1703 and section 1748b of this title" for "section 1703 of this title" in the first and second sentences.

1955—Act Aug. 11, 1955, substituted "July 1, 1955" for "July 1, 1954", and increased the mortgage-insurance authorization of the Federal Housing Administration from $3,500,000,000 to $4,000,000,000.

Act Mar. 11, 1955, increased the mortgage-insurance authorization of the Federal Housing Administration from $2,000,000,000 to $3,500,000,000.

1954—Act Aug. 2, 1954, amended section generally to consolidate all mortgage insurance authorizations (except the authorization under section 1703 of this title) into one general insurance authorization, to simplify operations, to permit greater flexibility in the use of the authorization as between separate programs, to establish at all times the amount of the current mortgage insurance authority under all programs, such total authorization not to exceed the estimated amount of insurance in force and commitments outstanding as of July 1, 1954, plus $1,500,000,000, except that with the approval of the President such total authorization could be increased by amounts up to, but not to exceed, $500,000,000.

1953—Act June 30, 1953, substituted "$3,400,000,000" for "$1,900,000,000" in second proviso.

1952—Act July 14, 1952, provided $400,000,000 additional F. H. A. mortgage insurance authorization, and permitted the recapture of unused authorizations under some subchapters of this chapter for use under other subchapters.

CROSS REFERENCES

Limitation of this section inapplicable to Subchapter VIII of chapter 13 of this title, see section 1748b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1750b of this title.

§ 1715i. Repealed. Pub. L. 86-372, title I, § 108, Sept. 23, 1959, 73 Stat. 657

Section, act June 27, 1934, ch. 847, title II, § 218, as added July 14, 1952, ch. 723, § 8, 66 Stat. 603, authorized a credit for application fees paid in cases where an application for mortgage insurance under section 1743 of this title was received on or before March 1, 1950, and the mortgagee applied for insurance of a mortgage under section 1713 of this title with respect to the same property or project.

§ 1715j. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title II, § 219, as added June 30, 1953, ch. 170, § 8, 67 Stat. 123, and amended Aug. 2, 1954, ch. 649, title I, § 122, 68 Stat. 596; July 12, 1957, Pub. L. 85-104, title I, § 113, 71 Stat. 298; June 30, 1961, Pub. L. 87-70, title VI, § 612(f), 75 Stat. 181, authorized the Commissioner to transfer funds from one or more to one or more of the following funds and accounts as he deems necessary to carry out programs for which such funds and accounts were established: Title I Insurance Account, Title I Housing Insurance Fund, Section 203 Home Improvement Account, Housing Insurance Fund, War Housing Insurance Fund, Housing Investment Insurance Fund, Armed Services Housing Mortgage Insurance Fund, National Defense Housing Insurance Fund, Section 220 Housing Insurance Fund, Section 220 Home Improvement Account, Section 221 Housing Insurance Fund, Experimental Housing Insurance Fund, Apartment Unit Insurance Fund, and the Servicemen's Mortgage Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1715k. Rehabilitation and neighborhood conservation housing insurance

(a) Purpose of section

The purpose of this section is to aid in the elimination of slums and blighted conditions and the prevention of the deterioration of residential property by supplementing the insurance of mortgages under sections 1709 and 1713 of this title with a system of loan and mortgage insurance designed to assist the financing required for the rehabilitation of existing dwelling accommodations and the construction of new dwelling accommodations where such dwelling accommodations are located in an area referred to in paragraph (1) of subsection (d) of this section.

(b) Authorization

The Secretary is authorized, upon application by the mortgagee, to insure, as hereinafter provided, any mortgage (including advances during construction on mortgages covering property of the character described in paragraph (3)(B) of subsection (d) of this section) which is eligible for insurance as hereinafter provided, and, upon such terms and conditions as he may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) Definitions

As used in this section, the terms "mortgage", "first mortgage", "mortgagee", "mortgagor", "maturity date", and "State" shall have the same meaning as in section 1707 of this title.

(d) Eligibility for insurance; conditions; limits

To be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall—

(A) be located in (i) the area of a slum clearance and urban redevelopment project covered by a Federal-aid contract executed or a prior approval granted, pursuant to title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] before August 2, 1954, or (ii) an urban renewal area (as defined in title I of the Housing Act of 1949, as amended) in a community respecting which the Secretary of Housing and Urban Development has made the determination provided for by section 101(c) of the Housing Act of 1949, as amended [42 U.S.C. 1451(c)], or (iii) the area of an urban renewal project assisted under section 111 of the Housing Act of 1949 [42 U.S.C. 1462], or (iv) an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949 [42 U.S.C. 1468]: *Provided,* That, in the case of an area within the purview of clause (i) or (ii) of this subparagraph, a redevelopment plan or an urban renewal plan (as defined in title I of the Housing Act of 1949, as amended), as the case may be, has been approved for such area by the governing body of the locality involved and by the

Secretary of Housing and Urban Development and the Secretary has determined that such plan conforms to a general plan for the locality as a whole and that there exist the necessary authority and financial capacity to assure the completion of such redevelopment or urban renewal plan: *And provided further,* That, in the case of an area within the purview of clause (iii) of this subparagraph, an urban renewal plan (as required for projects assisted under such section 111 [42 U.S.C. 1462]) has been approved for such area by such governing body and by the Secretary, and the Secretary has determined that such plan conforms to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements, and that there exist the necessary authority and financial capacity to assure the completion of such urban renewal plan, and

(B) meet such standards and conditions as the Secretary shall prescribe to establish the acceptability of such property for mortgage insurance under this section.

(2) The mortgaged property shall be held by—

(A) a mortgagor approved by the Secretary, and the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed $100 stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulations. Such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance; or

(B) by Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations or other legal entities restricted by or under Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation.

(3) The mortgage shall—

(A)(i) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $45,000 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or $48,750 in the case of a two-family residence; or $48,750 in the case of a three-family residence; or $56,000 in the case of a four-family residence; or in the case of a dwelling designed principally for residential use for more than four families (but not exceeding such additional number of family units as the Secretary may prescribe) $56,000 plus not to exceed $7,700 for each additional family unit in excess of four located on such property; and not to exceed an amount equal to the sum of (1) 97 per centum (but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, 90 per centum) of $25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance, (2) 90 per centum of such replacement cost in excess of $25,000 but not in excess of $35,000, (3) 80 per centum of such replacement cost in excess of $35,000: *Provided,* That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further,* That if the mortgagor is a veteran and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (1) 100 per centum of $25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance, (2) 90 per centum of such replacement cost in excess of $25,000 but not in excess of $35,000, and (3) 85 per centum of such replacement cost in excess of $35,000. As used herein, the term "veteran" means any person who served on active duty in the Armed Forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extrahazardous service), and who was discharged or released therefrom under conditions other than dishonorable;

(ii) in a case where the mortgagor is not the occupant of the property and intends to hold the property for rental purposes, have a principal obligation in an amount not to exceed 93 per centum of the amount computed under the provisions of clause (i);

(iii) in a case where the mortgagor is not the occupant of the property and intends to hold the property for the purpose of sale, have a principal obligation in an amount not to exceed 85 per centum of the amount computed under the provisions of clause (i), or in the alternative, in an amount equal to the amount computed under the provisions of clause (i) if the mortgagor and mortgagee assume responsibility in a manner satisfactory to the Secretary for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof, or by such greater amount as may be required to meet the limitations of clause (iv), in the event the mortgaged property is not, prior to the due date of the eighteenth amortization payment of the mortgage, sold to a purchaser acceptable to

the Secretary who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness; and

(iv) in no case involving refinancing (except as provided in clause (iii)) have a principal obligation in an amount exceeding the sum of the estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property or project, plus any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property; or

(B)(i) Repealed. Pub. L. 93-383, title III, § 304(d), Aug. 22, 1974, 88 Stat. 678.

(ii) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost of the property or project may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage: *Provided,* That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further,* That in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property or project: *Provided further,* That the mortgage may involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 110(c)(8) of the Housing Act of 1949 [42 U.S.C. 1460(c)(8)], and, in such case the foregoing limitations upon the amount of the mortgage shall be based upon the appraised value of the property as of the date the mortgage is accepted for insurance;

(iii) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $19,500 per family unit without a bedroom, $21,600 per family unit with one bedroom, $25,800 per family unit with two bedrooms, $31,800 per family unit with three bedrooms, and $36,000 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $22,500 per family unit without a bedroom, $25,200 per family unit with one bedroom, $30,900 per family unit with two bedrooms, $38,700 per family unit with three bedrooms, and $43,758 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; and except that with respect to rehabilitation projects involving not more than five family units, the Secretary may by regulation increase by 25 per centum any of the foregoing dollar amount limitations contained in this clause which are applicable to units with two, three, or four or more bedrooms: *Provided,* That the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this clause (as determined after the application of the preceding proviso) by not to exceed 50 per centum in any geographical area where he finds that cost levels so require: *Provided further,* That nothing contained in this subparagraph shall preclude the insurance of mortgages covering existing multifamily dwellings to be rehabilitated or reconstructed ior the purposes set forth in subsection (a) of this section; and

(iv) include such nondwelling facilities as the Secretary deems desirable and consistent with the urban renewal plan: *Provided,* That the project shall be predominantly residential and any nondwelling facility included in the mortgage shall be found by the Secretary to contribute to the economic feasibility of the project, and the Secretary shall give due consideration to the possible effect of the project on other business enterprises in the community.

(4) The mortgage shall provide for complete amortization by periodic payments within such terms as the Secretary may prescribe, but as to mortgages coming within the provisions of paragraph (3)(A) of this subsection not to exceed the maximum maturity prescribed by the provisions of section 1709(b)(3) of this title. The mortgage shall bear interest (inclusive of premium charges for insurance and service charge, if any) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market; contain such terms and provisions with respect to the application of the mortgagor's periodic payment to amortization of the principal of the mortgage, insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

(e) Release of mortgagor or part of property

The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instru-

ment secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(f) Entitlement of mortgagee to benefits; payment in cash or debentures; acquisition of mortgages; applicability of other provisions

The mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided—

(1) as to mortgages meeting the requirements of paragraph (3)(A) of subsection (d) of this section as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall be applicable to such mortgages insured under this section, except that all references therein to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund and all references therein to section 1709 of this title shall be construed to refer to this section;

(2) as to mortgages meeting the requirements of paragraph (3)(B) of subsection (d) of this section, as provided in section 1713(g) of this title with respect to mortgages insured under said section 1713, and the provisions of subsections (h), (i), (j), (k), and (*l*) of section 1713 of this title shall be applicable to such mortgages insured under this section, and all references therein to the Housing Insurance Fund or the Housing Fund shall be construed to refer to the General Insurance Fund; or

(3) as to mortgages meeting the requirements of this section that are insured or initially endorsed for insurance on or after June 30, 1961, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such paragraphs in cash or in denbentures (as provided in the mortgage insurance contract), or may acquire a mortgage loan that is in default and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage. After the acquisition of the mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the loan or the security for the loan. The appropriate provisions of sections 1710 and 1713 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this paragraph, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages so acquired (A) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (B) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to this section. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(g) Repealed. Pub. L. 89–117, title XI, § 1108(h)(3), Aug. 10, 1965, 79 Stat. 505

(h) Home improvement loans; eligibility; conditions; refinancing; premium charge; defaults; debentures; exception; limitation

(1) To assist further in the conservation, improvement, repair, and rehabilitation of property located in the area of an urban renewal project or in an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949 [42 U.S.C. 1468], as provided in paragraph (1) of subsection (d) of this section, the Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure and to insure home improvement loans (including advances during construction or improvement) made by financial institutions on and after June 30, 1961. As used in this subsection—

(A) the term "home improvement loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made—

(i) for the purpose of financing the improvement of an existing structure (or in connection with an existing structure) which was constructed not less than ten years prior to the making of such loan, advance of credit, or purchase, and which is used or will be used primarily for residential purposes: *Provided,* That a home improvement loan shall include a loan, advance, or purchase with respect to the improvement of a structure which was constructed less than ten years prior to the making of such loan, advance, or purchase if the proceeds are or will be used primarily for major structural improvements, or to correct defects which were not known at the time of the completion of the structure or which were caused by fire, flood, windstorm, or other casualty; or

(ii) for the purpose of enabling the borrower to pay that part of the cost of the construction or installation of sidewalks, curbs, gutters, street paving, street lights, sewers, or other public improvements, adjacent to or in the vicinity of property owned by him and used primarily for residential purposes, which is assessed against him or for which he is otherwise legally liable as the owner of such property;

(B) the term "improvement" means conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement, or remodeling; and

(C) the term "financial institution" means a lender approved by the Secretary as eligible for insurance under section 1703 of this title or a mortgagee approved under section 1709(b)(1) of this title.

(2) To be eligible for insurance under this subsection a home improvement loan shall—

(i) not exceed the Secretary's estimate of the cost of improvement, or $12,000 per family unit, whichever is the lesser, and be limited as required by paragraph (11): *Provided,* That the Secretary may, by regulation, increase such amount by not to exceed 45 per centum in any geographical area where he finds that cost levels so require;

(ii) be limited to an amount which when added to any outstanding indebtedness related to the property (as determined by the Secretary) creates a total outstanding indebtedness which does not exceed the limits provided in subsection (d)(3) of this section for properties (of the same type) other than new construction;

(iii) bear interest at not to exceed a rate prescribed by the Secretary, but not in excess of 6 per centum per annum of the amount of the principal obligation outstanding at any time, and such other charges (including such service charges, appraisal, inspection, and other fees) as may be approved by the Secretary;

(iv) have a maturity satisfactory to the Secretary, but not to exceed twenty years from the beginning of amortization of the loan, or three-quarters of the remaining economic life of the structure, whichever is the lesser;

(v) comply with such other terms, conditions, and restrictions as the Secretary may prescribe; and

(vi) represent the obligation of a borrower who is the owner of the property improved, or a lessee of the property under a lease for not less than 99 years which is renewable or under a lease having an expiration date in excess of 10 years later than the maturity date of the loan.

(3) Any home improvement loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of the maximum provided for in this subsection.

(4) Repealed. Pub. L. 89-117, title XI, § 1108(h)(3), Aug. 10, 1965, 79 Stat. 505.

(5) The Secretary is authorized to fix a premium charge for the insurance of home improvement loans under this subsection but in the case of any such loan such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the loan outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the financial institution either in cash or in debentures (at par plus accrued interest) issued by the Secretary as obligations of the General Insurance Fund, in such manner as may be prescribed by the Secretary, and the Secretary may require the payment of one or more such premium charges at the time the loan is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the loan. If the Secretary finds upon presentation of a loan for insurance and the tender of the initial premium charge or charges so required that the loan complies with the provisions of this subsection, such loan may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe. In the event the principal obligation of any loan accepted for insurance under this subsection is paid in full prior to the maturity date, the Secretary is authorized to refund to the financial institution for the account of the borrower all, or such portions as he shall determine to be equitable, of the current unearned premium charges theretofore paid.

(6) In cases of defaults on loans insured under this subsection, upon receiving notice of default, the Secretary, in accordance with such regulations as he may prescribe, may acquire the loan and any security therefor upon payment to the financial institution in cash or in debentures (as provided in the loan insurance contract) of a total amount equal to the unpaid principal balance of the loan, plus any accrued interest, any advances approved by the Secretary made previously by the financial institution under the provisions of the loan instruments, and reimbursement for such collection costs, court costs, and attorney fees as may be approved by the Secretary. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(7) Debentures issued under this subsection shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable, and shall be dated as of the date the loan is assigned to the Secretary and shall bear interest from that date. They shall bear interest at a rate established by the Secretary pursuant to section 1715o of this title, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature ten years after their date of issuance. They shall be exempt from taxation as provided in section 1713(i) of this title with respect to debentures issued under that section. They shall be paid out of the General Insurance Fund which shall be primarily liable therefor and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and the guaranty shall be expressed on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amounts so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures. Debentures issued under this subsection shall be in such form and denominations in multiples of $50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and they

may be in coupon or registered form. Any difference between the amount of the debentures to which the financial institution is entitled, and the aggregate face value of the debentures issued, not to exceed $50, shall be adjusted by the payment of cash by the Secretary to the financial institution from the General Insurance Fund.

(8) The provisions of subsections (c), (d), and (h) of section 1703 of this title shall apply to home improvement loans insured under this subsection, and for the purposes of this subsection references in subsections (c), (d), and (h) of section 1703 of this title to "this section" or "this subchapter" shall be construed to refer to this subsection.

(9)(A) Notwithstanding any other provisions of this chapter, no home improvement loan executed in connection with the improvement of a structure for use as rental accommodations for five or more families shall be insured under this subsection unless the borrower has agreed (i) to certify, upon completion of the improvement and prior to final endorsement of the loan, either that the actual cost of improvement equaled or exceeded the proceeds of the home improvement loan, or the amount by which the proceeds of the loan exceed the actual cost, as the case may be, and (ii) to pay forthwith to the financial institution, for application to the reduction of the principal of the loan, the amount, if any, certified to be in excess of the actual cost of improvement. Upon the Secretary's approval of the borrower's certification as required under this paragraph, the certification shall be final and incontestable, except for fraud or material misrepresentation on the part of the borrower.

(B) As used in subparagraph (A), the term "actual cost" means the cost to the borrower of the improvement, including the amounts paid for labor, materials, construction contracts, offsite public utilities, streets, organization and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus a reasonable allowance for builder's profit if the borrower is also the builder, as defined by the Secretary, and excluding the amount of any kickbacks, rebates, or trade discounts received in connection with the improvement.

(10) Notwithstanding any other provision of this chapter, the Secretary is authorized and empowered (i) to make expenditures and advances out of funds made available by this chapter to preserve and protect his interest in any security for, or the lien or priority of the lien securing, any loan or other indebtedness owing to, insured by, or acquired by the Secretary or by the United States under this subsection, or section 1703 or 1709(k) of this title; and (ii) to bid for and to purchase at any foreclosure or other sale or otherwise acquire property pledged, mortgaged, conveyed, attached, or levied upon to secure the payment of any loan or other indebtedness owing to or acquired by the Secretary or by the United States under this subsection or section 1703 or 1709(k) of this title. The authority conferred by this paragraph may be exercised as provided in the last sentence of section 1710(g) of this title.

(11) Notwithstanding any other provision of this chapter, no home improvement loan made in whole or in part for the purpose specified in clause (A)(ii) of the second sentence of paragraph (1) shall be insured under this subsection if such loan (or the portion thereof which is attributable to such purpose), when added to the aggregate principal balance of any outstanding loans insured under this subsection or section 1709(k) of this title which were made to the same borrower for the purpose so specified (or the portion of such aggregate balance which is attributable to such purpose), would exceed $10,000 or such additional amount as the Secretary has by regulation prescribed in any geographical area where he finds cost levels so require pursuant to the authority vested in him by the proviso in paragraph (2)(i) of this subsection.

(June 27, 1934, ch. 847, title II, § 220, as added Aug. 2, 1954, ch. 649, title I, § 123, 68 Stat. 596, and amended Aug. 11, 1955, ch. 783, title I, § 102(c), (g), 69 Stat. 635, 636; Aug. 7, 1956, ch. 1029, title I, § 107, title III, § 307(b), 70 Stat. 1094, 1102; Mar. 27, 1957, Pub. L. 85-10, § 3, 71 Stat. 8; July 12, 1957, Pub. L. 85-104, title I, §§ 102, 112, 71 Stat. 295, 297; Apr. 1, 1958, Pub. L. 85-364, § 1(b), 72 Stat. 73; Sept. 23, 1959, Pub. L. 86-372, title I, §§ 109, 116(b), 73 Stat. 657, 664; June 30, 1961, Pub. L. 87-70, title I, § 102(a), title VI, §§ 609, 612(g), 75 Stat. 154, 179, 181; Sept. 2, 1964, Pub. L. 88-560, title I, §§ 105(c)(1), 107(c), 110-113, 78 Stat. 772, 775, 777, 778; Aug. 10, 1965, Pub. L. 89-117, title II, §§ 207(c), 209-211, title III, § 311(c), (d), title XI, § 1108(h), 79 Stat. 467, 469, 470, 478, 505; Nov. 3, 1966, Pub. L. 89-754, title III, §§ 305, 306, 80 Stat. 1267; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), (g), 81 Stat. 17, 18; Aug. 1, 1968, Pub. L. 90-448, title III, § 311(a), title XVII, § 1722(g), 82 Stat. 510, 611; Dec. 24, 1969, Pub. L. 91-152, title I, §§ 102(b), 104, 113(d), 83 Stat. 380, 381, 384; Aug. 22, 1974, Pub. L. 93-383, title III, §§ 302(b), 303(c), 304(d), 310(b), 88 Stat. 676-678, 682; Dec. 23, 1975, Pub. L. 94-173, § 3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94-375, § 8(a), (b)(3), 90 Stat. 1071, 1072.)

REFERENCES IN TEXT

Title I of the Housing Act of 1949, as amended, referred to in subsec. (d), is classified to subchapter II (§ 1450 et seq.) of chapter 8A of Title 42, The Public Health and Welfare.

AMENDMENTS

1976—Subsec. (d)(3)(B)(iii). Pub. L. 94-375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "$19,500" for "$13,000", "$21,600" for "$18,000", "$25,800" for "$21,500", "$31,800" for "$26,500", "$36,000" for "$30,000", "$22,500" for "$15,000", "$25,200" for "$21,000", "$30,900" for "$25,750", "$38,700" for "$32,250", and "$43,758" for "$36,465".

1975—Subsec. (d)(3)(B)(iii). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (d)(3)(A)(i). Pub. L. 93-383, § 302(b), substituted "$45,000" for "$33,000", "$48,750" for "$35,750", and "$56,000" for "$41,250" wherever appearing therein in provisions preceding cl. (1).

Subsec. (d)(3)(A)(i)(1). Pub. L. 93-383, § 310(b)(1), substituted "$25,000" for "$15,000".

Subsec. (d)(3)(A)(i)(2). Pub. L. 93-383, § 310(b)(2), substituted "$25,000" for "$15,000" and "$35,000" for "$25,000".

Subsec. (d)(3)(A)(i)(3). Pub. L. 93-383, § 310(b)(3), substituted "$35,000" for "$25,000".

Subsec. (d)(3)(B)(i). Pub. L. 93-383, § 304(d), struck out subsec. (d)(3)(B)(i) which set forth mortgage ceiling of $50,000,000.

Subsec. (d)(3)(B)(iii). Pub. L. 93-383, § 303(c), substituted "$13,000" for "$9,900", "$15,000" for "$11,550", "$18,000" for "$13,750", "$21,000" for "$16,500", "$21,500" for "$16,500", "$25,750" for "$19,800", "$26,500" for "$20,350", "$30,000" for "$23,100", "$32,250" for "$24,750", and "$36,465" for "$28,050".

1969—Subsec. (d)(3)(A)(i). Pub. L. 91-152, §§ 102(b), 113(d)(1), substituted "$7,700" for "$7,000", "$25,000" for "$20,000" wherever appearing therein, "$33,000" for "$30,000", "$35,750" for "$32,500", and "$41,250" for "$37,500" wherever appearing therein.

Subsec. (d)(3)(B)(i). Pub. L. 91-152, § 104, substituted provisions that the mortgage not exceed $50,000,000 for provisions that the mortgage not exceed $30,000,000, or, if executed by a mortgagor within subsec. (d)(2)(B) of this section, not exceed $50,000,000.

Subsec. (d)(3)(B)(iii). Pub. L. 91-152, § 113(d), (2), (3), substituted "$9,900" for "$9,000", "$11,550" for "$10,500", "$13,750" for "$12,500", "$16,500" for "$15,000" wherever appearing therein, "$19,800" for "$18,000", "$20,350" for "$18,500", "$23,100" for "$21,000", "$24,750" for "$22,500", and "$28,050" for "$25,000".

Subsec. (h)(2)(i). Pub. L. 91-152, § 113(d)(4), substituted "$12,000" for "$10,000".

1968—Subsec. (d)(2)(B). Pub. L. 90-448, § 1722(g), substituted "corporations or other legal entities restricted by or under" for "corporations restricted by".

Subsec. (d)(3)(B)(ii). Pub. L. 90-448, § 311(a), inserted proviso to permit the mortgage to involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 1460(c)(8) of Title 42.

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b), (d)(1)(B), (d)(2)(A), (d)(3)(A)(i), (iii), (iv), (d)(3) (B)(ii) to (iv), (d)(4), (e), (f)(3), (h) (1), (h)(1)(C), (h)(2)(i) to (v), (h)(3), (5) to (7), (h)(9)(B), and (h)(10), (11) of this title.

Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing in subsecs. (d)(3)(A)(i)(B), (ii) and (h)(2)(i), (9)(A) of this section.

Subsec. (d)(1)(A). Pub. L. 90-19, § 1(g)(1) to (4), substituted "Secretary of Housing and Urban Development" and "Secretary" for "Housing and Home Finance Administrator" and "Administrator" wherever appearing, "determination" for "certification to the Commissioner", and "determined" for "certified to the Commissioner" wherever appearing, respectively.

1966—Subsec. (d)(3)(A)(i). Pub. L. 89-754, § 305, increased the rate in cl. (3) from 75 to "80 per centum of such replacement cost in excess of $20,000" and added proviso respecting mortgage limits of a mortgagor who is a veteran and the mortgage to be insured covers property upon which there is located a dwelling designed principally for a one-family residence and definition of "veteran".

Subsec. (d)(3)(B)(ii). Pub. L. 89-754, § 306, provided that with respect to rehabilitation projects involving not more than five family units, the Secretary may by regulation increase by 25 per centum any of the dollar amount limitations contained in this clause which are applicable to units with two, three, or four or more bedrooms, inserted "as determined after the application of the preceding proviso" preceding "by not to exceed 45 per centum", and substituted "Provided further, That nothing" for "Provided, That nothing".

1965—Subsec. (d)(1)(A). Pub. L. 89-117, § 311(c), inserted cl. (iv).

Subsec. (d)(2). Pub. L. 89-117, § 1108(h)(1), substituted "the General Insurance Fund" for "the section 220 Housing Insurance Fund" wherever appearing.

Subsec. (d)(3)(A)(i). Pub. L. 89-117, § 209(1), deleted a second proviso which, in a case involving refinancing, prohibited the mortgage to exceed the estimated cost of repair and rehabilitation and the amount required to refinance existing indebtedness secured by the property or project.

Subsec. (d)(3)(A)(ii). Pub. L. 89-117, § 209(2), substituted provisions prohibiting the mortgage, in a case where the mortgagor is not the occupant of the property and intends to hold the property for rental purposes, to have a principal obligation in an amount in excess of 93 per centum of the amount computed under the provisions of cl. (i) for provisions which prohibited the mortgage, in a case where a mortgagor is not the occupant of the property, to have a principal obligation in excess of an amount equal to 85 per centum of the amount computed under cl. (i).

Subsec. (d)(3)(A)(iii), (iv). Pub. L. 89-117, § 209(2), added cls. (iii) and (iv).

Subsec. (d)(3)(B)(iii). Pub. L. 89-117, § 207(c), substituted "$18,500 per family unit with three bedrooms, and $21,000 per family unit with four or more bedrooms" for "and $18,500 per family unit with three or more bedrooms" and "$22,500 per family unit with three bedrooms, and $25,500 per family unit with four or more bedrooms" for "and $22,500 per family unit with three or more bedrooms".

Subsec. (d)(3)(B)(iv). Pub. L. 89-117, § 210, substituted "desirable and consistent with the urban renewal plan" for "adequate to serve the needs of the occupants of the property and of other housing in the neighborhood", and added the proviso.

Subsec. (f). Pub. L. 89-117, § 1108(h)(1), (2) substituted "the General Insurance Fund" for "the section 220 Housing Insurance Fund" wherever appearing and, in par. (3), struck out provision that, as to mortgages acquired hereunder, all references in section 1713 of this title to the Housing Insurance Fund, the Housing Fund, or the Fund shall be construed to refer to the section 220 Housing Insurance Fund.

Subsec. (g). Pub. L. 89-117, § 1108(h)(3), repealed subsec. (g) which created the section 220 Housing Insurance Fund, provided for transfer of funds thereto, and authorized purchase and cancellation of debentures and the receipt and payment of charges and fees.

Subsec. (h)(1). Pub. L. 89-117, § 311(d), inserted "or in an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 1468 of Title 42".

Subsec. (h)(2)(i). Pub. L. 89-117, § 211(a), added the proviso permitting the Commissioner by regulation to increase the amount by not to exceed 45 per centum in any geographical area where he finds that cost levels so require.

Subsec. (h)(4). Pub. L. 89-117, § 1108(h)(3), repealed par. which created the Home Improvement Account and provided for the transfer of funds thereto, credit and charges to such Account, and disposition of surplus moneys.

Subsecs. (h)(5), (7). Pub. L. 89-117, § 1108(h)(4), substituted "General Insurance Fund" for "section 220 Home Improvement Account" wherever appearing.

Subsec. (h)(11). Pub. L. 89-117, § 211(b), inserted "or such additional amount as the Commissioner has by regulation prescribed in any geographical area where he finds cost levels so require pursuant to the authority vested in him by the proviso in par. (2)(i) of this subsection.

1964—Subsec. (d)(3)(A)(i). Pub. L. 88-560, § 110, increased the maximum amount of the principal obligation for one-family residences from $25,000 to $30,000, for two-family residences from $27,500 to $32,500, for three-family residences from $30,000 to $32,500, for four-family residences from $35,000 to $37,500, and for more-than-four-family residences from $35,000 to $37,500.

Subsec. (d)(3)(B)(i). Pub. L. 88-560, § 111, substituted "$30,000,000" for "$20,000,000".

Subsec. (d)(3)(B)(iii). Pub. L. 88-560, § 107(c), changed limits on mortgages for property or project

attributable to dwelling use from "$2,500 per room (or $9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "$9,000 per family unit without a bedroom, $12,500 per family unit with one bedroom, $15,000 per family unit with two bedrooms, and $18,500 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of $2,500 per room to not exceed $3,000 per room and the dollar amount limitation of $9,000 per family unit to not exceed $9,400 per family unit" to dollar amount limitations "per family unit to not to exceed $10,500 per family unit without a bedroom, $15,000 per family unit with one bedroom, $18,000 per family unit with two bedrooms, and $22,500 per family unit with three or more bedrooms", and substituted provision authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such an increase "by not to exceed $1,250 per room without regard to the number of rooms being less than four, or four or more".

Subsec. (f)(3). Pub. L. 88-560, § 105(c)(1), added the provision that "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner".

Subsec. (h)(1). Pub. L. 88-560, § 112(a), designated the definitions of "home improvement loan", "improvement", and "financial institution" in the second sentence as clauses (A)(i), (B), and (C), respectively, and added clause (A)(ii) to the definition of "home improvement loan".

Subsec. (h)(2)(i). Pub. L. 88-560, § 112(b), inserted the words ", and be limited as required by paragraph (11) of this subsection".

Subsec. (h)(2)(vi). Pub. L. 88-560, § 113, substituted "an expiration date in excess of 10 years later than the maturity date of the loan" for "a period of not less than 50 years to run from the date of the loan".

Subsec. (h)(6). Pub. L. 88-560, § 105(c)(1), added the provision that "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner".

Subsec. (h)(11). Pub. L. 88-560, § 112(c), added par. (11).

1961—Subsec. (a). Pub. L. 87-70, § 102(a)(2), substituted "loan and mortgage insurance" for "mortgage insurance".

Subsec. (d)(3)(A)(i). Pub. L. 87-70, §§ 102(a)(1), 609, increased the maximum amount of the principal obligation for one-family residences from $22,500 to $25,000, and for two-family residences from $25,000 to $27,500, substituted "$15,000" for "$13,500" in two instances, "$20,000" for "$18,000" in two instances, "75 per centum" for "70 per centum", and "shall be based upon the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation rather than upon the Commissioner's estimate of the replacement cost" for "shall be based upon appraised value rather than upon the Commissioner's estimate of the replacement cost" in the proviso relating to limitations upon the amount of the mortgage in the case of properties other than new construction, and inserted the proviso which limits, in cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property or project.

Subsec. (d)(3)(B)(ii). Pub. L. 87-70, § 102(a)(1), substituted "shall be based upon the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation rather than upon the Commissioner's estimate of the replacement cost" for "shall be based upon appraised value rather than upon the Commissioner's estimate of the replacement cost" in the proviso relating to limitations upon the amount of the mortgage in the case of properties other than new construction, and inserted the proviso which limits, in cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property or project.

Subsec. (f). Pub. L. 87-70, § 612(g), added par. (3).

Subsec. (h). Pub. L. 87-70, § 102(a)(3), added subsec. (h).

1959—Subsec. (d)(3)(A)(i). Pub. L. 86-372, § 109(a)(1), (2), increased the maximum amount of the principal obligation for one-family residences from $20,000 to $22,500, for two-family residences from $20,000 to $25,000, and for three-family residences from $27,500 to $30,000, and increased the maximum amount of loans over $13,500 from 85 percent of the value in excess of $13,500 but not in excess of $16,000 to 90 percent of the value in excess of $13,500 but not in excess of $18,000.

Pub. L. 86-372, § 109(a)(3), inserted proviso in subsec. (d)(3)(A)(ii) making the 85 per centum limitation inapplicable if the mortgagor and mortgagee assume responsibility for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof in the event the mortgaged property is not, prior to the due date of the 18th amortization payment of the mortgage, sold to a purchaser acceptable to the Commissioner who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness.

Subsec. (d)(3)(B)(i). Pub. L. 86-372, § 109(b), substituted "$20,000,000" for "$12,500,000".

Subsec. (d)(3)(B)(iii). Pub. L. 86-372, § 109(c) to (e), inserted parenthetical phrase "(excluding exterior land improvements as defined by the Commissioner)" following "dwelling use", and substituted "$2,500" for "$2,250" in two instances, "$9,000" for "$8,100" in two instances, "$3,000" for "$2,700", "$9,400" for "$8,400", and "$1,250" for "$1,000".

Subsec. (d)(3)(B)(iv). Pub. L. 86-372, § 109(e), added subsec. (d)(3)(B)(iv).

Subsec. (f)(1). Pub. L. 86-372, § 116(b), inserted reference to subsec. (k) of section 1710 of this title.

1958—Subsec. (d)(3)(A)(i). Pub. L. 85-364 substituted "$13,500" for "$10,000" in two instances.

1957—Subsec. (d)(3). Pub. L. 85-104, § 102, amended provisions generally, and, among other changes, raised maximum mortgage obligation from 95 to 97 percent, inserted the words "unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance", and as to estimated replacement cost, raised figure from $9,000 to $10,000 and provided for 85 percent of such replacement cost in excess of $10,000 and 70 percent in excess of $16,000, in lieu of former provisions allowing 75 percent of such cost in excess of $9,000 with Presidential authority to increase dollar amounts to $10,000.

Subsec. (d)(3)(B)(iii). Pub. L. 85-10 substituted the words "without regard to the number of rooms being less than four, or four or more" for "or per family unit, as the case may be", in the second proviso.

Subsec. (f)(1). Pub. L. 85-104, § 112, substituted "(h), and (j) of section 1710 of this title" for "and (h) of section 1710 of this title".

1956—Subsec. (d)(1)(A). Act Aug. 7, 1956, § 307(b), provided mortgage insurance assistance for urban renewal areas under section 1462 of this title without requiring the programs required of areas in clause (i) or clause (ii).

Subsec. (d)(3)(B)(ii). Act Aug. 7, 1956, § 107(a), inserted after "Commissioner" in the parenthetical phrase a comma and the words "and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Commissioner, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage".

Subsec. (d)(3)(B)(iii). Act Aug. 7, 1956, § 107(b), substituted "Provided further" for "except", substituted "any of the foregoing dollar amount limitations" for "the foregoing limits" and inserted "or per family unit, as the case may be," following "$1,000 per room".

1955—Subsec. (d)(3)(A). Act Aug. 11, 1955, § 102 (g)(1), provided that the maximum amount of a mortgage to be insured may be determined on the bases of estimated replacement cost, and required determination upon appraised value in case of properties other than new construction.

Subsec. (d)(3)(B). Act Aug. 11, 1955, § 102(c), (g)(2), increased from $5,000,000 to $12,500,000 the limitation on the maximum amount of a mortgage, provided that the maximum amount of a mortgage to be insured may be determined on the bases of estimated replacement cost, and required determination upon appraised value in case of properties other than new construction.

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendments to subsec. (d)(3)(B)(iii) of this section by section 107(c) of Pub. L. 88-560 or pre-amended provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

LABOR STANDARDS

Application of section 1715c of this title, relating to labor standards, to certain mortgage insurance under this section, see subsec. (a) of section 1715c.

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsecs. (d)(4) and (h)(2)(iii) of this section, see section 1709-1 of this title.

CROSS REFERENCES

Mutual Mortgage Insurance Fund, see section 1708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371, 1709, 1709-1, 1713, 1715c, 1715*l*, 1715n, 1715o, 1715q, 1715r, 1715w, 1715z-2, 1715z-5, 1717, 1720, 1731b of this title; title 42 sections 1451, 1452b.

§ 1715*l*. Housing for moderate income and displaced families

(a) Purpose

This section is designed to assist private industry in providing housing for low and moderate income families and displaced families.

(b) Authorization

The Secretary is authorized, upon application by the mortgagee, to insure under this section as hereinafter provided any mortgage (including advances during construction on mortgages covering property of the character described in paragraphs (3) and (4) of subsection (d) of this section) which is eligible for insurance as provided herein and, upon such terms and conditions as the Secretary may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) Definitions

As used in this section, the terms "mortgage", "first mortgage", "mortgagee", "mortgagor", "maturity date" and "State" shall have the same meaning as in section 1707 of this title.

(d) Eligibility for insurance; conditions; limits

To be eligible for insurance under this section, a mortgage shall—

(1) have been made to and be held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(2) be secured by property upon which there is located a dwelling conforming to applicable standards prescribed by the Secretary under subsection (f) of this section, and meeting the requirements of all State laws, or local ordinances or regulations, relating to the public health or safety, zoning, or otherwise, which may be applicable thereto, and shall involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount (A) not to exceed (i) $25,000 (or $29,000, if the mortgagor's family includes five or more persons) in the case of a property upon which there is located a dwelling designed principally for a single-family residence, (ii) $28,000 in the case of a property upon which there is located a dwelling designed principally for a two-family residence, (iii) $38,880 in the case of a property upon which there is located a dwelling designed principally for a three-family residence, or (iv) $47,520 in the case of a property upon which there is located a dwelling designed principally for a four-family residence: *Provided*, That a mortgage secured by property upon which there is located a dwelling designed principally for a two-, three-, or four-family residence shall not be insured under this section except in the case of a dwelling for occupancy by the mortgagor: *Provided further*, That the Secretary may increase the foregoing amounts to not to exceed $29,000 (or $33,000 if the mortgagor's family includes five or more persons), $36,000, $46,080, and $54,720, respectively, in any geographical area where he finds that cost levels so require; and (B) not to exceed the appraised value of the property (as of the date the mortgage is accepted for insurance): Provided further, That (i) if the mortgagor is the owner and an occupant of the property at the time of insurance, (1) in the case of a displaced family, he shall have paid on account of the property at least $200 in the case of a single-family dwelling, $400 in the case of a two-family dwelling, $600 in the case of a three-family dwelling, and $800 in the case of a four-family dwelling, or (2) in the case of any other family, he shall have paid on account of the property at least 3 per centum of the Secretary's estimate of its acquisition cost, in cash or its equivalent; which amount in either instance may include amounts to cover settlement costs and initial payments for taxes, hazard insurance, mortgage insurance premium, and other prepaid expenses; or (ii) in the case of repair and rehabilitation, the amount of the mortgage shall not exceed the sum of the estimated cost of repair and rehabilitation and the

Secretary's estimate of the value of the property before repair and rehabilitation, except that in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property: *Provided further,* That nothing contained herein shall preclude the Secretary from issuing a commitment to insure, and insuring a mortgage pursuant thereto, where the mortgagor is not the owner and an occupant of the property, if the property is to be built or acquired and repaired or rehabilitated for sale, and the insured mortgage financing is required to facilitate the construction, or the repair or rehabilitation, of the dwelling and to provide financing pending the subsequent sale thereof to a qualified owner who is also an occupant thereof, but in such instances the mortgage shall not exceed 85 per centum of the appraised value: *Provided further,* That, if the mortgagor is the owner and an occupant of the property, such mortgagor shall to the maximum extent feasible be given the opportunity to contribute the value of his labor as equity in such dwelling; or

(3) if executed by a mortgagor which is a public body or agency (and, except with respect to a project assisted or to be assisted pursuant to section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], which certifies that it is not receiving financial assistance from the United States exclusively pursuant to such Act [42 U.S.C. 1437 et seq.]) a cooperative (including an investor-sponsor who meets such requirements as the Secretary may impose to assure that the consumer interest is protected), or a limited dividend corporation (as defined by the Secretary), or a private nonprofit corporation or association, or other mortgagor approved by the Secretary, and regulated or supervised under Federal or State laws or by political subdivisions of States, or agencies thereof, or by the Secretary under a regulatory agreement or otherwise, as to rents, charges, and methods of operation, in such form and in such manner as in the opinion of the Secretary will effectuate the purposes of this section—

(i) Repealed. Pub. L. 93-383, title III, § 304 (e)(1), Aug. 22, 1974, 88 Stat. 678.

(ii) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary) $16,860 per family unit without a bedroom, $18,648 per family unit with one bedroom, $22,356 per family unit with two bedrooms, $28,152 per family unit with three bedrooms, and $31,884 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $19,680 per family unit without a bedroom, $22,356 per family unit with one bedroom, $26,496 per family unit with two bedrooms, $33,120 per family unit with three bedrooms, and $38,400 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this clause by not to exceed 50 per centum in any geographical area where he finds that cost levels so require; and

(iii) not exceed (1) in the case of new construction, the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary), or (2) in the case of repair and rehabilitation, the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation: *Provided,* That in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property or project: *Provided further,* That the mortgage may involve the financing of the purchase or property which has been rehabilited[1] by a local public agency with Federal assistance pursuant to section 110(c)(8) of the Housing Act of 1949 [42 U.S.C. 1460(c)(8)], and, in such case, the amount of the mortgage shall not exceed the appraised value of the property as of the date the mortgage is accepted for insurance: *Provided further,* That in the case of any mortgagor other than a nonprofit corporation or association, cooperative (including an investor-sponsor), or public body, or a mortgagor meeting the special requirements of subsection (e)(1) of this section, the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section: *Provided further,* That such property or project, when constructed, or repaired and rehabilitated, shall be for use as a rental or cooperative project, and low and moderate income families or displaced families shall be eligible for occupancy in accordance with such regulations and procedures as may be prescribed by the Secretary and the Secretary may adopt such requirements as he determines to be desirable regarding consultation with local public officials where such consultation is appropriate by reason of the relationship of such project to projects under other local programs; or

(4) if executed by a mortgagor other than a mortgagor referred to in subsection (d)(3) of this section, and which is approved by the Secretary—

(i) Repealed. Pub. L. 93-383, title III, § 304(e) (2), Aug. 22, 1974, 88 Stat. 678.

(ii) not exceed, for such part of the property or project as may be attributable to

[1] So in original. Probably should be "rehabilitated."

dwelling use (excluding exterior land improvements as defined by the Secretary), $18,450 per family unit without a bedroom, $20,625 per family unit, with one bedroom, $24,630 per family unit with two bedrooms, $29,640 per family unit with three bedrooms, and $34,846 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $20,962 per family unit without a bedroom, $24,030 per family unit with one bedroom, $29,220 per family unit with two bedrooms, $37,800 per family unit with three bedrooms, and $41,494 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this clause by not to exceed 50 per centum in any geographical area where he finds that cost levels so require;

(iii) not exceed (in the case of a property or project approved for mortgage insurance prior to the beginning of construction) 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items, except the land, unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage); and

(iv) not exceed 90 per centum of the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation if the proceeds of the mortgage are to be used for the repair and rehabilitation of a property or project: *Provided,* That in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property or project: *Provided further,* That the Secretary may, in his discretion, require the mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restrictions or regulations, with such stock or interest being paid for out of the General Insurance Fund and being required to be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance;

(5) bear interest (exclusive of premium charges for insurance and service charge, if any) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market; and contain such terms and provisions with respect to the application of the mortgagor's periodic payment to amortization of the principal of the mortgage, insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe: *Provided,* That a mortgage insured under the provisions of subsection (d)(3) of this section shall bear interest (exclusive of any premium charges for insurance and service charge, if any) at not less than the lower of (A) 3 per centum per annum, or (B) the annual rate of interest determined, from time to time by the Secretary of the Treasury at the request of the Secretary, by estimating the average market yield to maturity on all outstanding marketable obligations of the United States, and by adjusting such yield to the nearest one-eighth of 1 per centum, and there shall be no differentiation in the rate of interest charged under this proviso as between mortgagors under subsection (d)(3) of this section on the basis of differences in the types or classes of such mortgagors, and

(6) provide for complete amortization by periodic payments within such terms as the Secretary may prescribe, but as to mortgages coming within the provisions of subsection (d)(2) of this section not to exceed from the date of the beginning of amortization of the mortgage (i) 40 years in the case of a displaced family, (ii) 35 years in the case of any other family if the mortgage is approved for insurance prior to construction, except that the period in such case may be increased to not more than 40 years where the mortgagor is an owner-occupant of the property and is not able, as determined by the Secretary, to make the required payments under a mortgage having a shorter amortization period, and (iii) 30 years in the case of any other family where the mortgage is not approved for insurance prior to construction: *Provided,* That no mortgage insured under subsection (d)(2) of this section shall have a maturity exceeding three-quarters of the Secretary's estimate of the remaining economic life of the building improvements.

(e) Definition of "mortgagor"; release of mortgagor or part of property

(1) A mortgagor which may be approved by the Secretary as provided in subsection (d)(3) of this section includes a mortgagor which, as a condition of obtaining insurance of the mortgage and prior to the submission of its application for such insurance, has entered into an

agreement (in form and substance satisfactory to the Secretary) with a private nonprofit corporation eligible for an insured mortgage under the provisions of subsection (d)(3) of this section, that the mortgagor will sell the project when it is completed to the corporation at the actual cost of the project, as certified pursuant to section 1715r of this title. The mortgagor to whom the property is sold shall be regulated or supervised by the Secretary as provided in subsection (d)(3) of this section to effectuate its purposes.

(2) The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(f) Compliance with standards; nondwelling facilities in projects in urban renewal areas; number of family units; premium charges; housing for low-income purchasers; expiration of mortgage insurance authority; definition of "family"; single occupants in subsection (d)(3) housing; use of certain housing facilities for classroom purposes

The property or project shall comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of such property for mortgage insurance and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants: *Provided,* That in the case of any such property or project located in an urban renewal area, the provisions of section 1715k(d)(3)(B)(iv) of this title shall apply with respect to the nondwelling facilities which may be included in the mortgage: *Provided further,* That, in the case of a mortgage which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5) of this section, the provisions of section 1715k(d)(3)(B)(iv) of this title shall only apply if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to commercial facilities.

A property or project covered by a mortgage insured under the provisions of subsection (d)(3) or (d)(4) of this section shall include five or more family units: *Provided,* That such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities, and such projects may include central dining and other shared facilities. The Secretary is authorized to adopt such procedures and requirements as he determines are desirable to assure that the dwelling accommodations provided under this section are available to displaced families. Notwithstanding any provision of this chapter, the Secretary, in order to assist further the provision of housing for low and moderate income families, in his discretion and under such conditions as he may prescribe, may insure a mortgage which meets the requirements of subsection (d)(3) of this section as in effect after June 30, 1961, or which meets the requirements of subsection (h), (i), or (j) of this section with no premium charge, with a reduced premium charge, or with a premium charge for such period or periods during the time the insurance is in effect as the Secretary may determine, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to reimburse the General Insurance Fund for any net losses in connection with such insurance. No mortgage shall be insured under this section after June 30, 1977, except pursuant to a commitment to insure before that date, or except a mortgage covering property which the Secretary finds will assist in the provision of housing for displaced families. Any person who is sixty-two years of age or over, or who is a handicapped person within the meaning of section 1701q of this title, or who is a displaced person, shall be deemed to be a family within the meaning of the terms "family" and "families" as those terms are used in this section. Low- and moderate-income persons who are less than 62 years of age shall be eligible for occupancy of dwelling units in a project financed with a mortgage insured under subsection (d)(3) of this section. In any case in which it is determined in accordance with regulations of the Secretary that facilities in existence or under construction on December 31, 1970, which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools of residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the proviso in section 1715k(d)(3)(B)(iv) of this title except the requirement that the project be predominantly residential).

As used in this section the terms "displaced family", "displaced families", and "displaced person" shall mean a family or families, or a person, displaced from an urban renewal area, or as a result of governmental action, or as a result of a major disaster as determined by the President pursuant to the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.].

(g) Entitlement of mortgagee to benefits; applicability of other provisions; debentures; definition of "going Federal rate"

The mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided—

(1) as to mortgages meeting the requirements of paragraph (2) of subsection (d) of this section, paragraph (5) of subsection (h) of this section, or paragraph (2) of subsection (i) of this section, as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall be applicable to such mortgages insured under this section, except that all references therein to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund and all references therein to section 1709 of this title shall be construed to refer to this section; or

(2) as to mortgages meeting the requirements of paragraph (3) or (4) of subsection (d) of this section, paragraph (1) of subsection (h) of this section, or paragraph (2) of

subsection (j) of this section as provided in section 1713(g) of this title with respect to mortgages insured under said section 1713, and the provisions of subsections (h), (i), (j), (k), and (*l*) of section 1713 of this title shall be applicable to such mortgages insured under this section; or

(3) as to mortgages meeting the requirements of this section which are insured or initially endorsed for insurance on or after June 30, 1961, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such paragraphs in cash or in debentures (as provided in the mortgage insurance contract), or may acquire a mortgage loan that is in default and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage, and after the acquisition of any such mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the loan or the security for the loan. The appropriate provisions of sections 1710 and 1713 of this title relating to the issuance of debentures shall apply with respect to debentures issued under this paragraph, and the appropriate provisions of sections 1710 and 1713 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this paragraph, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages so acquired (A) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (B) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to this section. If the insurance is paid in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(4) in the event any mortgage insured under this section is not in default at the expiration of twenty years from the date the mortgage was endorsed for insurance, the mortgagee shall, within a period thereafter to be determined by the Secretary, have the option to assign, transfer, and deliver to the Secretary the original credit instrument and the mortgage securing the same and receive the benefits of the insurance as hereinafter provided in this paragraph, upon compliance with such requirements and conditions as to the validity of the mortgage as a first lien and such other matters as may be prescribed by the Secretary at the time the loan is endorsed for insurance. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for insurance shall cease, and the Secretary shall, subject to the cash adjustment provided herein, issue to the mortgagee debentures having a total face value equal to the amount of the original principal obligation of the mortgage which was unpaid on the date of the assignment, plus accrued interest to such date. Debentures issued pursuant to this paragraph shall be issued in the same manner and subject to the same terms and conditions as debentures issued under paragraph (1) of this subsection, except that the debentures issued pursuant to this paragraph shall be dated as of the date the mortgage is assigned to the Secretary, shall mature ten years after such date, shall bear interest from such date at the going Federal rate determined at the time of issuance. The term "going Federal rate" as used herein means the annual rate of interest which the Secretary of the Treasury shall specify as applicable to the six-month period (consisting of January through June or July through December) which includes the issuance date of such debentures, which applicable rate for each such six-month period shall be determined by the Secretary of the Treasury by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May or the month of November, as the case may be, next preceding such six-month period, on all outstanding marketable obligations of the United States having a maturity date of eight to twelve years from the first day of such month of May or November (or, if no such obligations are outstanding, the obligation next shorter than eight years and the obligation next longer than twelve years, respectively, shall be used), and by adjusting such estimated average annual yield to the nearest one-eight of 1 per centum. The Secretary shall have the same authority with respect to mortgages assigned to him under this paragraph as contained in sections 1713(k) and 1713(*l*) of this title as to mortgages insured by the Secretary and assigned to him under section 1713 of this title.

(h) Insurance of mortgages to finance purchase and rehabilitation by nonprofit organizations of housing for resale to low-income purchasers, and insurance of mortgages executed for the purpose of financing rehabilitation or improvement of dwellings owned and occupied by mortgagors who purchased from nonprofit organizations

(1) In addition to mortgages insured under the other provisions of this section, the Secretary is authorized, upon application by the mortgagee, to insure under this subsection as hereinafter provided any mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization to finance the purchase and rehabilitation of deteriorating or substandard housing for subsequent resale to low-income home purchasers and, upon such terms and conditions as the Secretary may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit corporation or association, approved by the Secretary, for financing the purchase and rehabilitation (with the intention of subsequent resale) of property comprising one or more tracts or parcels, whether or not contiguous, upon which there is located deteriorating or substandard housing consisting of (i) four or more single-family dwellings of detached, semidetached, or row construction, or (ii) four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established;

(B) be secured by the property which is to be purchased and rehabilitated with the proceeds thereof;

(C) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of the rehabilitation;

(D) bear interest (exclusive of premium charges for insurance and service charge, if any) at the rate in effect under the proviso in subsection (d)(5) of this section at the time of execution;

(E) provide for complete amortization (subject to paragraph (5)(E)) by periodic payments within such term as the Secretary may prescribe; and

(F) provide for the release of individual single-family dwellings from the lien of the mortgage upon the sale of the rehabilitated dwellings in accordance with paragraph (5).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property to be rehabilitated is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the rehabilitation to be carried out by the mortgagor plus its related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4) The aggregate principal balance of all mortgages insured under paragraph (1) and outstanding at any one time shall not exceed $50,000,000.

(5)(A) No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement (in form and substance satisfactory to the Secretary) that it will offer to sell the dwellings involved, upon completion of their rehabilitation, to individuals or families (hereinafter referred to as "low-income purchasers") determined by the Secretary to have incomes below the maximum amount specified (with respect to the area involved) in section 1701s(c)(1) of this title.

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to low-income purchasers as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount equal to that portion of the unpaid balance of the principal mortgage covering the property (insured under paragraph (1)) which is allocable to the individual dwelling involved; and

(ii) bear interest at the same rate as the principal mortgage or such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment the purchaser's income is sufficiently low to justify the lower rate, and provide for complete amortization within a term equal to the remaining term (determined without regard to subparagraph (E)) of such principal mortgage: *Provided*, That, if the rate of interest initially prescribed is less than the rate borne by the principal mortgage and the purchaser's income (as determined on the basis of periodic review) subsequently rises, the rate of interest so prescribed shall be increased (but not above the rate borne by such principal mortgage), under regulations of the Secretary, to the extent appropriate to reflect the increase in such income, and the mortgage shall so provide.

(C) The price for which any individual dwelling is sold to a low-income purchaser under this paragraph shall be the amount of the mortgage covering the sale as determined under subparagraph (B), except that the purchaser shall in addition thereto be required to pay on account of the property at the time of purchase such amount (which shall not be less than $200, but which may be applied in whole or in part toward closing costs) as the Secretary may determine to be reasonable and appropriate in the circumstances.

(D) Upon the sale under this paragraph of any individual dwelling, such dwelling shall be released from the lien of the principal mortgage, and such mortgage shall thereupon be replaced by an individual mortgage insured under this paragraph to the extent of the portion of its unpaid balance which is allocable to the dwelling covered by such individual mortgage. Until all of the individual dwellings in the property covered by the principal mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time as though they constituted rental units in a project covered by a mortgage which is insured under subsection (d)(3) (and which receives the benefits of the interest rate provided for in the proviso in subsection (d)(5) of this section).

(E) Upon the sale under this paragraph of all of the individual dwellings in the property covered by the principal mortgage, and the release of all individual dwellings from the lien of the principal mortgage, the insurance of the principal mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(F) Any mortgage insured under this paragraph shall contain a provision that if the low-income mortgagor does not continue to occupy the property the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time of commitment for insurance of the principal mortgage; except that the increase in interest rate shall not be applicable if the prop-

erty is sold and the purchaser is (i) the nonprofit organization which executed the principal mortgage, (ii) a public housing agency having jurisdiction under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] over the area where the dwelling is located, or (iii) a low-income purchaser approved for the purposes of this paragraph by the Secretary.

(6) In addition to the mortgages that may be insured under paragraphs (1) and (5), the Secretary is authorized to insure under this subsection at any time within one year after August 1, 1968, upon such terms and conditions as he may prescribe, mortgages which are executed by individuals or families that meet the income criteria prescribed in paragraph (5)(A) and are executed for the purpose of financing the rehabilitation or improvement of single-family dwellings of detached, semidetached, or row construction that are owned and occupied in each instance by a mortgagor who has purchased the dwelling from a nonprofit organization of the type described in this subsection. To be eligible for such insurance, a mortgage shall—

(A) be in a principal amount not exceeding the lesser of $18,000 or the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation, except that in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property;

(B) bear interest (exclusive of premium charges for insurance and service charge, if any) at 3 per centum per annum or such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment the mortgagor's income is sufficiently low to justify the lower rate: *Provided,* That, if the rate of interest initially prescribed is less than 3 per centum per annum and the mortgagor's income (as determined on the basis of periodic review) subsequently rises, the rate shall be increased (but not above 3 per centum), under regulations of the Secretary, to the extent appropriate to reflect the increase in such income, and the mortgage shall so provide;

(C) involve a mortgagor that shall have paid on account of the property at the time of the rehabilitation such amount (which shall not be less than $200 in cash or its equivalent, but which may be applied in whole or in part toward closing costs) as the Secretary may determine to be reasonable and appropriate under the circumstances; and

(D) contain a provision that, if the low-income mortgagor does not continue to occupy the property, the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time the commitment was issued for insurance of the mortgage; except that the increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) a nonprofit organization which has been engaged in purchasing and rehabilitating deteriorating and substandard housing with financing under a mortgage insured under paragraph (1) of this subsection, (ii) a public housing agency having jurisdiction under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] over the area where the dwelling is located, or (iii) a low-income purchaser approved for the purposes of this paragraph by the Secretary.

(7) Where the Secretary has approved a plan of family unit ownership, the terms "single-family dwelling", "single-family dwellings", "individual dwelling", and "individual dwellings" shall mean a family unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(8) For purposes of this subsection, the terms "single-family dwelling" and "single-family dwellings" (except for purposes of paragraph (7)) shall include a two-family dwelling which has been approved by the Secretary if one of the units is to be occupied by the owner.

(i) Conversion of insured project to plan of family unit ownership; sale of units; agreements for maintenance; release from lien of project mortgage; insurance of mortgages financing purchase of individual family units; eligibility for insurance; definitions

(1) The Secretary is authorized, with respect to any project involving a mortgage insured under subsection (d)(3) of this section which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5) of this section, to permit a conversion of the ownership of such project to a plan of family unit ownership. Under such plan, each family unit shall be eligible for individual ownership and provision shall be included for the sale of the family units, together with an undivided interest in the common areas and facilities which serve the project, to low or moderate income purchasers. The Secretary shall obtain such agreements as he determines to be necessary to assure continued maintenance of the common areas and facilities. Upon such sale, the family unit and the undivided interest in the common areas shall be released from the lien of the project mortgage.

(2)(A) The Secretary is authorized, upon application by the mortgagee, to insure under this subsection mortgages financing the purchase of individual family units under the plan prescribed in paragraph (1). Commitments may be issued by the Secretary for the insurance of such mortgages prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. To be eligible for such insurance, the mortgage shall—

(i) be executed by a mortgagor having an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) of this section which bears interest at the below-market rate prescribed in the proviso of subsection (d)(5) of this section;

(ii) involve a principal obligation (including such initial service charges, and such appraisal, inspection, and other fees, as the Secretary shall approve) in an amount not to exceed the Secretary's estimate of the appraised value of the family unit, including the

mortgagor's interest in the common areas and facilities, as of the date the mortgage is accepted for insurance;

(iii) bear interest at a rate determined by the Secretary (which may vary in accordance with the regulations of the Secretary promulgated pursuant to the last sentence of paragraph (4) of this subsection) but not less than the below-market rate in effect under the proviso of subsection (d)(5) of this section at the date of the commitment for insurance; and

(iv) provide for complete amortization by periodic payments within such term as the Secretary may prescribe, but not to exceed the lesser of forty years from the beginning of amortization of the mortgage or three-quarters of the Secretary's estimate of the remaining economic life of the building improvements.

(B) The price for which the individual family unit is sold to the low or moderate income purchaser shall not exceed the appraised value of the property, as determined under subparagraph (A)(ii), except that the purchaser shall be required to pay on account of the property at the time of purchase at least such amount, in cash or its equivalent (which shall be not less than 3 per centum of such price, but which may be applied in whole or in part toward closing costs), as the Secretary may determine to be reasonable and appropriate.

(3) Upon the sale of all of the family units covered by the project mortgage, and the release of all of the family units (including the undivided interest allocable to each unit in the common areas and facilities) from the lien of the project mortgage, the insurance of the project mortgage shall be terminated and no adjusted premium charge shall be collected by the Secretary upon such termination.

(4) Any mortgage covering an individual family unit insured under this subsection shall contain a provision that, if the original mortgagor does not continue to occupy the property, the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time the commitment was issued for the insurance of the project mortgage; except that the requirement for an increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) a nonprofit purchaser approved by the Secretary, or (ii) a low or moderate income purchaser who has an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) of this section which bears interest at the below-market rate prescribed in the proviso of subsection (d)(5) of this section. The mortgage shall also contain a provision that, if the Secretary determines that the annual income of the original mortgagor (or a purchaser described in clause (ii) of the preceding sentence) has increased to an amount enabling payment of a greater rate of interest, the interest rate of the individual mortgage may be increased up to the highest rate permissible under the regulations of the Secretary for mortgages insured under this section, effective at the time the commitment was issued for the insurance of the mortgage.

(5) For the purpose of this section—

(i) the term "mortgage", when used in relation to a mortgage insured under paragraph (2) of this subsection, includes a first mortgage given to secure the unpaid purchase price of a fee interest in, or a long-term leasehold interest in, a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project; and

(ii) the term "common areas and facilities" includes the land and such commercial, community, and other facilities as are approved by the Secretary.

(j) Conversion of insured rental projects to cooperatives; eligibility for membership; insurance of cooperative mortgages financing purchase of projects; eligibility for insurance

(1) The Secretary is authorized, with respect to any rental project involving a mortgage insured under subsection (d)(3) of this section which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5) of this section, to permit a conversion of the ownership of such project to a cooperative approved by the Secretary. Membership in such cooperative shall be made available only to those families having an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) of this section, which bears interest at such below-market rate: *Provided,* That families residing in the rental project at the time of its conversion to a cooperative who do not meet such income limits may be permitted to become members in the cooperative under such special terms and conditions as the Secretary may prescribe.

(2) The Secretary is authorized, upon application by the mortgagee, to insure under this subsection cooperative mortgages financing the purchase of projects meeting the requirements of paragraph (1). Commitments may be issued by the Secretary for the insurance of such mortgages prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. To be eligible for such insurance, the mortgage shall—

(i) involve a principal obligation (including such initial service charges and appraisal, inspection, and other fees as the Secretary shall approve) in an amount not exceeding the appraised value of the property for continued use as a cooperative, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after the payment of all operating expenses, taxes, and required reserves;

(ii) bear interest at the below-market rate prescribed in the proviso of subsection (d)(5) of this section; and

(iii) provide for complete amortization within such term as the Secretary may prescribe.

(June 27, 1934, ch. 847, title II, § 221, as added Aug. 2, 1954, ch. 649, title I, § 123, 68 Stat. 599, and amended Aug. 11, 1955, ch. 783, title I, § 102(c), (j), 69 Stat. 635; Aug. 7, 1956, ch. 1029, title I, § 108, title III, § 307(c), 70 Stat. 1094,

1102; July 12, 1957, Pub. L. 85-104, title I, § 112, 71 Stat. 297; Sept. 23, 1959, Pub. L. 86-372, title I, §§ 110(a)(1), (2), (b)-(e), 116(b), 73 Stat. 658, 659, 664; June 30, 1961, Pub. L. 87-70, title I, § 101(a), 75 Stat. 149; June 29, 1963, Pub. L. 88-54, 77 Stat. 73; Sept. 2, 1964, Pub. L. 88-560, title I, §§ 105(c)(2), 107(d), 114, title II, §§ 202, 203(b), 78 Stat. 772, 775, 778, 779, 783, 784; Aug. 10, 1965, Pub. L. 89-117, title I, § 102(a), (b), title II, § 207(d), title XI, § 1108(i), 79 Stat. 454, 467, 505; Nov. 3, 1966, Pub. L. 89-754, title III, §§ 307-310(c), 80 Stat. 1268-1270; Nov. 6, 1966, Pub. L. 89-769, § 4, 80 Stat. 1317; May 25, 1967, Pub. L. 90-19, § 1(a), (3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title I, §§ 101(b), (c), 105, title III, §§ 305, 306, 311(b), 316, 82 Stat. 483, 488, 508, 510, 512; Sept. 30, 1969, Pub. L. 91-78, § 2(c), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title I, §§ 101(c), 113 (e), 83 Stat. 379, 384; Oct. 2, 1970, Pub. L. 91-432, § 1(c), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91-473, § 1(c), 84 Stat. 1064; Dec. 1, 1970, Pub. L. 91-525, § 1(c), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91-606, title III, § 301(d), 84 Stat. 1758; Dec. 31, 1970, Pub. L. 91-609, title I, §§ 101(c), 114(a), 114[115](a), 84 Stat. 1770, 1773; Oct. 18, 1972, Pub. L. 92-503, § 1(c), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93-85, § 1(c), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93-117, § 1(c), 87 Stat. 421; May 22, 1974, Pub. L. 93-288, title VI, § 602(d), 88 Stat. 163; Aug. 22, 1974, Pub. L. 93-383, title III, §§ 302(c), 303(d), (e), 304(e), 316(c), 319(a), 88 Stat. 676-678, 685, 686; Dec. 23, 1975, Pub. L. 94-173, §§ 3, 4(a), 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94-375, §§ 3(d), 8(a), (b)(4), (5), 90 Stat. 1069, 1071, 1072.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Such Act, referred to in subsec. (d)(3), is the United States Housing Act of 1937, which is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, and is classified to chapter 8 (§ 1437 et seq.) of Title 42, The Public Health and Welfare.

The Disaster Relief Act of 1974, referred to in subsec. (f), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified generally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note under section 5121 of Title 42 and Tables volume.

The United States Housing Act of 1937, referred to in subsecs. (h)(5)(F), (6)(D), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, and is classified to chapter 8 (§ 1437 et seq.) of Title 42, The Public Health and Welfare.

AMENDMENTS

1976—Subsec. (d)(2)(A). Pub. L. 94-375, § 3(d), substituted "$25,000" for "$21,600", "$29,000" for "$25,200" in two places, and "$33,000" for "$28,800".

Subsec. (d)(3)(ii). Pub. L. 94-375, § 8(b)(4), substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "$16,860" for "$11,240", "$18,648" for "$15,540", "$22,356" for "$18,630", "$28,152" for "$23,460", "$31,884" for "$26,570", "$19,680" for "$13,120", "$22,356" for "$18,630", "$26,496" for "$22,080", "$33,120" for "$27,600", and "$38,400" for "$32,000".

Subsec. (d)(4)(ii). Pub. L. 94-375, § 8(b)(5), substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "$18,450" for "$12,300", "$20,625" for "$17,188", "$24,630" for "$20,525", "$29,640" for "$24,700", "$34,846" for "$29,038", "$20,962" for "$13,975", "$24,030" for "$20,025", "$29,220" for "$24,350", "$37,800" for "$31,500", and "$41,494" for "$34,578".

1975—Subsec. (d)(3)(ii). Pub. L. 94-173, § 3, raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

Subsec. (d)(4)(ii). Pub. L. 94-173, § 3, raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

Subsec. (f). Pub. L. 94-173, § 4(a), struck out a provision limiting to 10 per centum the number of dwelling units available to low and moderate income persons under the age of 62 in a project financed with a mortgage issued under subsection (d)(3) of this section.

1974—Subsec. (d)(2)(A). Pub. L. 93-383, § 302(c), substituted "$21,600" for "$18,000", "$25,200" for "$21,000" wherever appearing therein, "$28,000" for "$24,000", "$28,800" for "$24,000", "$36,000" for "$30,000", "$38,880" for "$32,400", "$46,080" for "$38,400", "$47,520" for "$39,600", and "$54,720" for "$45,600".

Subsec. (d)(3). Pub. L. 93-383, § 319(a), added exception for certification of projects assisted or to be assisted pursuant to section 8 of the United States Housing Act of 1937.

Subsec. (d)(3)(i). Pub. L. 93-383, § 304(e)(1), struck out subsec. (d)(3)(i) which set forth mortgage ceiling of $12,500,000.

Subsec. (d)(3)(ii). Pub. L. 93-383, § 303(d), substituted "$11,240" for "$9,200", "$13,120" for "$10,925", "$15,540" for "$12,937.50", "$16,200" for "$13,500", "$18,630" for "$15,525", "$22,080" for "$18,400", "$23,460" for "$19,550" "$26,570" for "$22,137.50", "$27,600" for "$23,000", and "$32,000" for "$26,162.50".

Subsec. (d)(4)(i). Pub. L. 93-383, § 304(e)(2), struck out subsec. (d)(4)(i) which set forth mortgage ceiling of $12,500,000.

Subsec. (d)(4)(ii). Pub. L. 93-383, § 303(e), substituted "$12,300" for "$9,200", "$13,975" for "$10,525", "$17,188" for "$12,937.50", "$20,025" for "$15,525", "$20,525" for "$15,525", "$24,350" for "$18,400", "$24,700" for "$19,550", "$29,038" for "$22,137.50", "$31,500" for "$23,000", and "$34,578" for "$26,162.50".

Subsec. (f). Pub. L. 93-383, § 316(c), substituted "June 30, 1977" for "October 1, 1974".

Pub. L. 93-288 substituted "the Disaster Relief Act of 1974" for "the Disaster Relief Act of 1970".

1973—Subsec. (f). Pub. L. 93-117 extended the mortgage insurance authority under this section from October 1, 1973, to October 1, 1974.

Pub. L. 93-85 extended the mortgage insurance authority under this section from June 30, 1973, to October 1, 1973.

1972—Subsec. (f). Pub. L. 92-503 extended the mortgage insurance authority under this section from October 1, 1972 to June 30, 1973.

1970—Subsec. (f). Pub. L. 91-609 in second par., substituted "October 1, 1972" for "January 1, 1971"; provided for use of certain housing facilities for classroom purposes where public schools in the community are overcrowded due in part to attendance of residents of the property or project; dispensed with need for kitchen facilities in family units in projects for displaced, elderly, or handicapped families, but permitted inclusion of central dining and other shared facilities; provided that any person who is a displaced person shall be deemed to be a family; and, in third par., substituted "the terms 'displaced family', 'displaced families', and 'displaced person' shall mean a family or families, or a person" for "the terms 'displaced family' and 'displaced families' shall mean a family or families", respectively.

Pub. L. 91-606 substituted "the Disaster Relief Act of 1970" for "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended".

Pub. L. 91-525 substituted "January 1, 1971" for "December 1, 1970".

Pub. L. 91-473 substituted "December 1, 1970" for "November 1, 1970".

Pub. L. 91-432 substituted "November 1, 1970" for "October 1, 1970".

1969—Subsec. (d)(2). Pub. L. 91-152, § 113(e)(1), (2), substituted "$18,000" for "$15,000", "$21,000" for "$17,500", wherever appearing therein, "$24,000" for "$20,000" wherever appearing therein, "$30,000" for "$25,000", "$32,400" for "$27,000", "$38,400" for "$32,000", "$39,600" for "$33,000", and "$45,600" for "$38,000".

Subsec. (d)(3)(ii). Pub. L. 91-152, § 113(e)(3), (4), substituted "$9,200" for "$8,000", "$10,925" for "$9,500", "$12,937.50" for "$11,250", "$15,525" for "$13,500" wherever appearing therein, "$18,400" for "$16,000", "$19,550" for "$17,000", "$22,137.50" for "$19,250", "$23,000" for "$20,000", and "$26,162.50" for "$22,750".

Subsec. (d)(4)(ii). Pub. L. 91-152, § 113(e)(5), (6), substituted "$9,200" for "$8,000", "$10,925" for "$9,500", "$12,937.50" for "$11,250", "$15,525" for "$13,500" wherever appearing therein, "$18,400" for "$16,000", "$19,550" for "$17,000", "$22,137.50" for "$19,250", "$23,000" for "$20,000", and "$26,162.50" for "$22,750".

Subsec. (f). Pub. L. 91-152, § 101(c), substituted "October 1, 1970" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

Subsec. (h)(6)(A). Pub. L. 91-152, § 113(e)(7), substituted "$18,000" for "$15,000".

1968—Subsec. (d)(2)(A). Pub. L. 90-448, §§ 101(b)(1), 305, increased maximum amount of mortgages for single-family residences from $12,500 to $15,000 (or $17,500 if mortgagor's family includes five or more persons), and in geographical areas where costs levels so require from $15,000 to $17,500 (or $20,000 if the mortgagor's family includes five or more persons), and § 305(d)(2)(A) substituted "the mortgagor" for "a displaced family" in the first proviso.

Subsec. (d)(2)(B). Pub. L. 90-448, § 101(b)(2), inserted words ", in cash or its equivalent" in cl. (2), and added proviso directing that a mortgagor who is the owner and an occupant of the property be given the opportunity to contribute the value of his labor as equity in such dwelling.

Subsec. (d)(3)(iii). Pub. L. 90-448, § 311(b), inserted proviso to permit the mortgage to involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 1460(c)(8) of Title 42.

Subsec. (f). Pub. L. 90-448, §§ 105(d), 306, authorized the Secretary to insure mortgages meeting the requirements of subsection (i) or (j) of this section, eliminated the phrase "if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to community and shopping facilities" from the first proviso, and inserted proviso making the provisions of section 1715k(d)(3)(B)(iv) applicable, in the case of a mortgage which bears interest at the below-market interest rate prescribed in subsec. (d)(5) of this section, only if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to commercial facilities.

Subsec. (g)(1). Pub. L. 90-448, § 105(b), included mortgages meeting requirements of paragraph (2) of subsection (i) of this section.

Subsec. (g)(2). Pub. L. 90-448, § 105(c), included mortgages meeting the requirements of paragraph (2) of subsection (j) of this section.

Subsec. (h)(2)(A). Pub. L. 90-448, § 316(a), reduced the number of one-family dwellings from five or more to four or more, and permitted the mortgage to cover four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established.

Subsec. (h)(4). Pub. L. 90-448, § 101(c)(2), increased the aggregate principal balance of mortgages insured from $20,000,000 to $50,000,000.

Subsec. (h)(5)(B)(ii). Pub. L. 90-448, § 101(c)(1), permitted the mortgage to bear interest at such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment the purchaser's income is sufficiently low to justify the lower rate, and added proviso requiring the rate of interest to be increased if the purchaser's income subsequently rises.

Subsec. (h)(6). Pub. L. 90-448, § 101(c)(3), added par. (6).

Subsecs. (h)(7), (8). Pub. L. 90-448, § 316(b), added pars. (7) and (8).

Subsecs. (i), (j). Pub. L. 90-448, § 105(a), added subsecs. (i) and (j).

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b), (d)(1) to (3), (d)(3)(ii), (iii), (d)(4), (d)(4)(ii) to (iv), (d)(5), (6), (e)(1), (2), (f), and (g)(3), (4) of this section.

Subsec. (d). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing in pars. (2), (3)(iii), (4)(iv), and (6) of this subsection.

1966—Subsec. (a). Pub. L. 89-769, § 4(a), substituted "displaced families" for "families displaced from urban renewal areas or as a result of governmental action".

Subsecs. (d)(2), (d)(6). Pub. L. 89-769, § 4(a), substituted "displaced family" for "family displaced from an urban renewal area or as a result of governmental action" wherever appearing.

Subsec. (d)(2)(A). Pub. L. 89-754, § 307, increased maximum amount of mortgages for single-family and two-family residences from $11,000 and $18,000 to $12,500 and $20,000, respectively.

Subsec. (d)(3)(iii). Pub. L. 89-769, § 4(a), substituted "displaced families" for "families displaced by urban renewal or other governmental action".

Subsec. (f). Pub. L. 89-769, § 4(a), (b), substituted "displaced families" for "families displaced from urban renewal areas or as a result of governmental action", and added definition of the terms "displaced family" and "displaced families".

Pub. L. 89-754, §§ 308, 309, 310(c), inserted in first sentence provision for nondwelling facilities in projects in urban renewal areas, added provision respecting single occupants in housing under subsec. (d)(3) of this section, and inserted in fourth sentence "or which meet the requirements of subsection (h) of this section", respectively.

Subsec. (g)(1). Pub. L. 89-754, § 310(b)(1), inserted "or paragraph (5) of subsection (h) of this section".

Subsec. (g)(2). Pub. L. 89-754, § 310(b)(2), inserted "or paragraph (1) of subsection (h) of this section".

Subsec. (h). Pub. L. 89-754, § 310(a), added subsec. (h). A prior subsec. (h) was repealed by Pub. L. 89-117, title XI, § 1108(i)(4), Aug. 10, 1965, 79 Stat. 505.

1965—Subsec. (d)(3)(ii). Pub. L. 89-117, § 207(d), substituted "$17,000 per family unit with three bedrooms, and $19,250 per family unit with four or more bedrooms" for "and $17,000 per family unit with three or more bedrooms" and "$20,000 per family unit with three bedrooms, and $22,750 per family unit with four or more bedrooms" for "and $20,000 per family unit with three or more bedrooms".

Subsec. (d)(4). Pub. L. 89-117, §§ 207(d), 1108(i)(1), substituted "$17,000 per family unit with three bedrooms, and $19,250 per family unit with four or more bedrooms" for "and $17,000 per family unit with three or more bedrooms" and "$20,000 per family unit with three bedrooms, and $22,750 per family unit with four or more bedrooms" for "and $20,000 per family unit with three or more bedrooms" in subpar. (ii) and substituted "General Insurance Fund" for "section 221 Housing Insurance Fund" wherever appearing.

Subsec. (d)(5). Pub. L. 89-117, § 102(b), substituted "not less than the lower of (A) 3 per centum per annum, or (B) the annual rate of interest determined" for "not less than the annual rate of interest determined" in the proviso.

Subsec. (f). Pub. L. 89-117, §§ 102(a), 1108(i)(1), substituted "this section after October 1, 1969" for "subsection (d)(2) or (d)(4) after September 30, 1965, or under subsection (d)(3) after September 30, 1965" and

substituted "General Insurance Fund" for "section 221 Housing Insurance Fund".

Subsec. (g)(1). Pub. L. 89-117, § 1108(i)(1), substituted "General Insurance Fund" for "section 221 Housing Insurance Fund".

Subsec. (g)(2). Pub. L. 89-117, § 1108(i)(2), struck out provision that all references in section 1713 to the Housing Insurance Fund or the Housing Fund shall be construed to refer to the section 221 Housing Insurance Fund.

Subsec. (g)(3). Pub. L. 89-117, § 1108(i)(1), (3), substituted "General Insurance Fund" for "section 221 Housing Insurance Fund" and struck out provision that all references in section 1713 of this title to the Housing Insurance Fund, the Housing Fund, or the Fund shall be construed to refer to the section 221 Housing Insurance Fund.

Subsec. (h). Pub. L. 89-117, § 1108(i)(4), repealed subsec. (h) which created the section 221 Housing Insurance Fund, provided for the transfer of funds thereto, authorized the purchase and cancellation of debentures and the credit and payment of charges and fees.

1964—Subsec. (d)(3). Pub. L. 88-560, § 114(a), inserted ", or other mortgagor approved by the Commissioner, and" following "or association".

Subsec. (d)(3)(ii), (4)(ii). Pub. L. 88-560, § 107(d)(1), (2), changed limits on mortgages for property or project attributable to dwelling use from "$2,250 per room (or $8,500 per family unit if the number of rooms in such property or project is less than four per family unit)" to "$8,000 per family unit without a bedroom, $11,250 per family unit with one bedroom, $13,500 per family unit with two bedrooms, and $17,000 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of $2,250 per room to not to exceed $2,750 per room, and the dollar amount limitation of $8,500 per family unit to not to exceed $9,000 per family unit" to dollar amount limitations "per family unit to not to exceed $9,500 per family unit without a bedroom, $13,500 per family unit with one bedroom, $16,000 per family unit with two bedrooms, and $20,000 per family unit with three or more bedrooms", and substituted provision authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such an increase "by not to exceed $1,000 per room without regard to the number of rooms being less than four, or four or more".

Subsec. (d)(3)(iii). Pub. L. 88-560, § 114(c), inserted the proviso reading "Provided further, That in the case of any mortgagor other than a nonprofit corporation or association, cooperative (including an investor-sponsor), or public body, or a mortgagor meeting the special requirements of subsection (e)(1) of this section, the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section".

Subsec. (e). Pub. 88-560, § 114(b), added par. (1) and designated existing provisions as par. (2).

Subsec. (f). Pub. L. 88-560, §§ 114(d), 202, 203(b), extended the mortgage insurance authority under subsec. (d)(2) and (4) of this section from July 1, 1965 to Sept. 30, 1965, added the definition of "family", and substituted in such definition "person who is sixty-two years of age or over, or who is a handicapped person within the meaning of section 1701q of this title," for "person who is sixty-two years of age or over".

Subsec. (g)(3). Pub. L. 88-560, § 105(c)(2), substituted a period for "; or" and added the sentence "If the insurance is paid in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner".

1963—Subsec. (f). Pub. L. 88-54 extended the mortgage insurance authority under subsections (d)(2) and (4) of this section from July 1, 1963 to July 1, 1965.

1961—Pub. L. 87-70, § 101(a)(1), added the section catchline.

Subsec. (a). Pub. L. 87-70, § 101(a)(2), redefined the purpose of this section as one to assist private industry in providing housing for low and moderate income families and families displaced from urban renewal areas or as a result of governmental action, and eliminated provisions which required localities, communities or environs of communities to request the mortgage insurance, which limited the number of dwelling units to not more than the aggregate number which the Housing Administrator certified to the Commissioner, and which authorized assistance for relocation of families to be displaced as the result of governmental action in a community to those cases in which a certification by the Housing Administrator pursuant to section 1451(c) of Title 42 has been made, or there is being carried out a project covered by a Federal aid contract executed, or prior approval granted, under subchapter II of chapter 8A of Title 42, or there is being carried out an urban renewal project assisted under section 1462 of Title 42.

Subsec. (b). Pub. L. 87-70, § 101(a)(3), empowered the Commissioner to insure advances during construction on mortgages covering property of the character described in pars. (3) and (4) of subsection (d) of this section.

Subsec. (d)(2). Pub. L. 87-70, § 101(a)(4), (5), increased the maximum amount of mortgages for single-family residences from $9,000 to $11,000, three-family residences from $25,000 to $27,000 and for four-family residences from $32,000 to $33,000, increased the maximum amount of mortgages that the Commissioner may authorize in cases where he finds the cost levels so require from $12,000 to $15,000 for single-family residences, $20,000 to $25,000 for two-family residences, $27,500 to $32,000 for three-family residences and $35,000 to $38,000 for four-family residences, required families other than those displaced from an urban renewal area or as a result of Government action to pay on account of the property at least 3 per centum of the Commissioner's estimate of its acquisition cost, prohibited insurance of mortgages for dwellings designed principally for two-, three-, or four-family residences except in the case of dwellings for occupancy by a family displaced from an urban renewal area or as a result of governmental action, and eliminated provisions which required the Commissioner to prescribe procedures relating to priorities in occupancy of the remaining units of two-, three-, and four-family dwellings after occupancy of one unit by the owner.

Subsec. (d)(3). Pub. L. 87-70, § 101(a)(6), included public bodies and agencies which certify that they are not receiving financial assistance exclusively pursuant to the United States Housing Act of 1937 cooperatives, and limited dividend corporations, increased the maximum amount of mortgages from not more than $9,000 per family unit for such part of such property or project as may be attributable to dwelling use to not more than $2,250 per room (or $8,500 per family unit if the number of rooms is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), empowered the Commissioner to increase the maximum from $2,250 to $2,750 per room and from $8,500 to $9,000 per family unit to compensate for higher costs incident to the construction of elevator-type structures, and in geographical areas which the cost levels so require from $2,250 to $3,250 per room, increased the maximum amount of the mortgage in the case of repair and rehabilitation from not more than the Commissioner's estimate of the value of the property when the proposed repair and rehabilitation is completed to not more than the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation, limited, in cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property or project, and eliminated

provisions which required the property or project to be for use as rental accommodations for ten or more families eligible for occupancy.

Subsec. (d)(4). Pub. L. 87-70, § 101(a)(7) to (10), substituted "other than a mortgagor referred to in subsection (d)(3) of this section" for "which is not a nonprofit organization" in the opening provisions, increased the maximum amount of mortgages from not more than $9,000 per family unit for such part of such property or project as may be attributable to dwelling use to not more than $2,250 per room (or $8,500 per family unit if the number of rooms is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), empowered the Commissioner to increase the maximum from $2,250 to $2,750 per room and from $8,500 to $9,000 per family unit to compensate for higher costs incident to the construction of elevator-type structures, and in geographical areas which the cost levels so require from $2,250 to $3,250 per room, increased the maximum amount of the mortgage in the case of repair and rehabilitation from not more than 90 per centum of the Commissioner's estimate of the value of the property or project when the proposed repair and rehabilitation is completed to not more than 90 per centum of the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation, limited, in cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property of project, and eliminated provisions which required the property or project to be for use as rental accommodations for ten or more families eligible for occupancy.

Subsec. (d)(5). Pub. L. 87-70, § 101(a)(10), (11) eliminated provisions which required the mortgage to provide for complete amortization by periodic payments within such terms as the Commissioner may prescribe, but not to exceed 40 years from the date of insurance of the mortgage or three-quarters of the Commissioner's estimate of the remaining economic life of the building improvements, whichever is the lesser, and inserted proviso requiring the mortgage to bear interest at not less than the annual rate of interest determined by estimating the average market yield to maturity on all outstanding marketable obligations of the United States, and by adjusting such yield to the nearest one-eighth of 1 per centum.

Subsec. (d)(6). Pub. L. 87-70, § 101(a)(10) added subsec. (d)(6).

Subsec. (f). Pub. L. 87-70, § 101(a)(12), required a property or project covered by a mortgage insured under subsec. (d)(3) or (d)(4) of this section to include five or more family units, empowered the Commissioner to adopt such procedures and requirements to assure that the dwelling accommodations provided under this section are available to families displaced from urban renewal areas or as a result of governmental action, authorized the Commissioner to insure a mortgage which meets subsec. (d)(3) of this section with no premium charge, with a reduced premium charge, or with a premium charge for such period or periods during the time the insurance is in effect as he may determine, and prohibited insurance of mortgages under subsec. (d)(2) or (d)(4) of this section after July 1, 1963, or under subsec. (d)(3) of this section after July 1, 1965, except pursuant to a commitment to insure before that date or except a mortgage covering property which will assist in the provision of housing for families displaced from urban renewal areas or as a result of governmental action.

Subsec. (g)(3). Pub. L. 87-70, § 101(a)(13), added subsec. (g)(3). Former subsec. (g)(3) redesignated (g)(4).

Subsec. (g)(4). Pub. L. 87-70, § 101(a)(13), (14), redesignated former subsec. (g)(3) as (g)(4), and substituted therein "this paragraph" for "this paragraph (3)".

Subsec. (h). Pub. L. 87-70, § 101(a)(15), inserted "cash payments," after "cash adjustments," in the last sentence.

1959—Subsec. (a). Pub. L. 86-372, § 110(a)(1), (2), inserted provisions in the first paragraph to authorize assistance in relocating families residing in the environs of a community described in cl. (2) which are to be displaced as the result of governmental action, added provisions in the second paragraph making mortgage insurance available in environs of communities and substituted "in or near any such community" for "in any such community" in the second proviso of the second paragraph.

Subsec. (d)(2). Pub. L. 86-372, § 110(b), required a mortgage to be secured by property upon which there is located a dwelling conforming to applicable standards prescribed by the Commissioner under subsec. (f) of this section, and meeting the requirements of all State laws, or local ordinances or regulations, relating to the public health or safety, zoning, or otherwise, which may be applicable thereto, increased the maximum amount of the mortgage on a single-family residence in a high cost area from $10,000 to $12,000, authorized insurance of mortgages for two-, three-, and four-family residences and required the Commissioner to prescribe such procedures as are necessary to secure to families, referred to in subsec. (a) of this section, priorities in occupancy of the remaining units of two-, three-, and four-family dwellings after occupancy of one unit by the owner.

Subsec. (d)(3). Pub. L. 86-372, § 110(c)(1), (2), substituted "$12,000" for "$10,000", and "not in excess of (1) in the case of new construction, the amount which the Commissioner estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Commissioner), or (2) in the case of repair and rehabilitation, the Commissioner's estimate of the value of the property when the proposed repair and rehabilitation is completed: *Provided*, That such property or project, when constructed, or repaired and rehabilitated, shall be for use as rental accommodations for ten or more families eligible for occupancy as provided in this section; or" for "not in excess of the Commissioner's estimate of the value of the property or project when constructed, or repaired and rehabilitated, for use as rental accommodations for ten or more families eligible for occupancy as provided in this section; and".

Subsec. (d)(4). Pub. L. 86-372, § 110(c)(3), added subsec. (d)(4). Former subsec. (d)(4) redesignated as (d)(5).

Subsec. (d)(5). Pub. L. 86-372, § 110(c)(3), redesignated former subsec. (d)(4) as (d)(5).

Subsec. (f). Pub. L. 86-372, § 110(d), authorized the property or project to include such commercial and community facilities as the Commissioner deems adequate to serve the occupants.

Subsec. (g)(1). Pub. L. 86-372, § 116(b), inserted a reference to subsec. (k) of section 1710 of this title.

Subsec. (g)(2). Pub. L. 86-372, § 110(e), substituted "paragraph (3) or (4)" for "paragraph (3)".

1957—Subsec. (g)(1). Pub. L. 85-104 substituted "(h), and (j) of section 1710 of this title" for "and (h) of section 1710 of this title".

1956—Subsec. (a). Act Aug. 7, 1956, § 307(c), inserted in the first sentence ", or (3) there is being carried out an urban renewal project assisted under section 1462 of Title 42" and substituted "clause (2) or (3)" for "clause (2)" each place it appears in the last proviso.

Subsec. (d). Act Aug. 7, 1956, § 108, substituted "$9,000" for "$7,600" and "$10,000" for "$8,600" in pars. (2) and (3); amended par. (2) to allow mortgage insurance for appraised value and to require at least $200 initial payment, which amount could include prepaid expenses, in lieu of former provisions which allowed mortgage to be insured up to 95 percent of the

appraised value and required at least a 5 percent initial payment; eliminated "95 per centum of" following "not in excess of" and added "or the Federal Housing Commissioner" following "agencies thereof" in par. (3) and substituted "forty" for "thirty" in par. (4).

1955—Subsec. (a). Act Aug. 11, 1955, § 102(j), authorized assistance in relocating families from urban renewal areas even though such families are not required to leave the area.

Subsec. (d)(3). Act Aug. 11, 1955, § 102(c), increased from $5,000,000 to $12,500,000 the limitation on the maximum amount of a mortgage.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as an Effective Date of 1970 Amendment note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-769 applicable with respect to any major disaster occurring after Oct. 3, 1964, see section 14 of Pub. L. 89-769, set out as a note under section 1855aa of Title 42, The Public Health and Welfare.

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendment to subsec. (d)(3)(ii), (4)(ii) of this section by section 107(d)(1), (2) of Pub. L. 88-560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

TAXATION OF INTEREST PAID ON OBLIGATIONS SECURED BY INSURED MORTGAGE AND ISSUED BY PUBLIC AGENCY

Section 319(b) of Pub. L. 93-383 provided that: "With respect to any obligation secured by a mortgage which is insured under section 221(d)(3) of the National Housing Acts [subsec. (d)(3) of this section] and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8 of the United States Housing Act of 1937 [section 1437f of title 42], the interest paid on such obligation shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 [chapter 1 of title 26]."

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (d)(5) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701s, 1701u, 1701z-4, 1709-1, 1713, 1715c, 1715h, 1715m, 1715n, 1715*o*, 1715r, 1715z, 1715z-1, 1715z-2, 1717, 1720, 1731b, 1735b of this title; title 26 section 1250; title 40 section 484b; title 40 App. section 207; title 42 sections 1451, 1452b, 1457, 2982c.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47-801a of the District of Columbia Code.

§ 1715m. Mortgage insurance for servicemen

(a) Purpose; housing certificates

The purpose of this section is to aid in the provision of housing accommodations for servicemen in the armed forces of the United States and their families, servicemen in the United States Coast Guard and their families, and servicemen in the United States National Oceanic and Atmospheric Administration and their families by supplementing the insurance of mortgages under section 1709 of this title with a system of mortgage insurance specially designed to assist the financing required for the construction or purchase of dwellings by those persons. As used in this section, a "serviceman" means a person to whom the Secretary of Defense (or any officer or employee designated by him), the Secretary of Transportation (or any officer or employee designated by him), or the Secretary of Commerce (or any officer or employee designated by him), as the case may be, has issued a certificate hereunder indicating that such person requires housing, is serving on active duty in the armed forces of the United States, in the United States Coast Guard, or in the United States National Oceanic and Atmospheric Administration and has served on active duty for more than two years, but a certificate shall not be issued hereunder to any person ordered to active duty for training purposes only. The Secretary of Defense, the Secretary of Transportation, and the Secretary of Commerce, respectively, are authorized to prescribe rules and regulations governing the issuance of such certificates and may withhold issuance of more than one such certificate to a serviceman whenever in his discretion issuance is not justified due to circumstances resulting from military assignment, or, in the case of the United States Coast Guard or the United States National Oceanic and Atmospheric Administration, other assignment.

(b) Eligibility of mortgage for insurance

To be eligible for insurance under this section a mortgage shall—

(1) meet the requirements of section 1709(b), 1709(i), 1715*l*(d)(2), or 1715y(c) of this title, except as such requirements are modified by this section;

(2) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $45,000, except that in the case of a mortgage meeting the requirements of section 1709(i) or section 1715*l*(d)(2) of this title such principal obligation shall not exceed the maximum limits prescribed for such section;

(3) have a principal obligation not in excess of the sum of (i) 97 per centum of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, (ii) 90 per centum of such value in excess of $25,000 but not in excess of $35,000, and (iii) 80 per centum of such value in excess of $35,000; and

(4) be executed by a mortgagor who at the time of application for insurance is certified as a "serviceman" and who at the time of insurance is the owner of the property and either occupies the property or certifies that his failure to do so is the result of his military assignment, or, in the case of the United States Coast Guard or the United States National Oceanic and Atmospheric Administration, other assignment.

(c) Manner of acceptance; payment of premiums

The Secretary may prescribe the manner in which a mortgage may be accepted for insurance under this section. Premiums fixed by the Secretary under section 1709 of this title with respect to, or payable during, the period of ownership by a serviceman of the property involved shall not be payable by the mortgage [1] but shall be paid not less frequently than once each year, upon request of the Secretary to the Secretary of Defense, the Secretary of Transportation, or the Secretary of Commerce, as the case may be, from the respective appropriations available for pay and allowances of persons eligible for mortgage insurance under this section. As used herein, "the period of ownership by a serviceman" means the period, for which premiums are fixed, prior to the date that the Secretary of Defense (or any officer or employee or other person designated by him), the Secretary of Transportation (or any officer or employee or other person designated by him), or the Secretary of Commerce (or any officer or employee or other person designated by him), as the case may be, furnishes the Secretary with a certification that such ownership (as defined by the Secretary), has terminated.

(d) Entitlement of mortgagee to benefits

Any mortgagee under a mortgage insured under this section is entitled to the benefits of the insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title.

(e) Applicability of other provisions

The provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall apply to mortgages insured under this section, except that as applied to those mortgages (1) all references to the Fund, or Mutual Mortgage Insurance Fund, shall refer to the General Insurance Fund, and (2) all references to section 1709 of this title shall refer to this section.

(f) Transfer of insurance on mortgages covering single-family dwellings or one-family units in condominium projects if mortgage is assumed by serviceman

The Secretary is authorized to transfer to this section the insurance on any mortgage covering a single-family dwelling or a one-family unit in a condominium project insured under this chapter, if the mortgage indebtedness thereof has been assumed by a serviceman who at the time of assumption is the owner of the property and either occupies the property or certifies that his failure to do so is the result of his military assignment, or, in the case of the United States Coast Guard or the United States National Oceanic and Atmospheric Administration, other assignment.

(g) Extension of period of ownership where serviceman dies while on active duty

Where a serviceman dies while on active duty in the armed forces of the United States or in the United States Coast Guard or in the United States National Oceanic and Atmospheric Administration, leaving a surviving widow as owner of the property, the period of ownership by the serviceman (within the meaning of subsection (c) of this section) shall extend for two years beyond the date of the serviceman's death or until the date the widow disposes of the property, whichever date occurs first. The Secretary of Defense or the Secretary of Transportation, or the Secretary of Commerce, as the case may be, shall notify such widow promptly following the serviceman's death of the additional costs to be borne by the mortgagor following termination of the two-year period.

[1] So in original. Probably should be "mortgagee".

(June 27, 1934, ch. 847, title II, § 222, as added Aug. 2, 1954, ch. 649, title I, § 124, 68 Stat. 603, and amended July 12, 1957, Pub. L. 85-104, title I, §§ 103, 112, 71 Stat. 296, 297; Sept. 23, 1959, Pub. L. 86-372, title I, §§ 111, 116(b), 73 Stat. 661, 664; Sept. 2, 1964, Pub. L. 88-560, title I, § 115, 78 Stat. 779; Aug. 10, 1965, Pub. L. 89-117, title II, § 212, title XI, § 1108(j), 79 Stat. 470, 505; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title III, § 301, 82 Stat. 505; Dec. 24, 1969, Pub. L. 91-152, title I, §§ 102(c), 105, 113(f), 83 Stat. 380, 381, 384; Dec. 31, 1970, Pub. L. 91-621, § 7(b), 84 Stat. 1865; Aug. 22, 1974, Pub. L. 93-383, title III, §§ 302(d), 310(c), 88 Stat. 676, 682.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

CODIFICATION

The text reading "servicemen in the armed forces of the United States and their families, servicemen in the United States Coast Guard and their families, and servicemen in the United States National Oceanic and Atmospheric Administration and their families" read in subsec. (a) as amended by Pub. L. 91-621 "servicemen in the armed forces of the United States Coast Guard and their families, and servicemen in the United States National Oceanic and Atmospheric Administration and their families" and expresses the Congressional intent as manifest in the legislative history.

AMENDMENTS

1974—Subsec. (b)(2). Pub. L. 93-383, § 302(d), substituted "$45,000" for "$33,000".

Subsec. (b)(3). Pub. L. 93-383, § 310(c), in cl. (i) substituted "$25,000" for "$15,000", in cl. (ii) substituted "$25,000" for "$15,000" and "$35,000" for "$25,000" and in cl. (iii) substituted "80" for "85" and "$35,000" for "$25,000".

1970—Pub. L. 91-621 extended benefits accorded members of the armed forces under this chapter with respect to insurance of mortgages to servicemen in the United States National Oceanic and Atmospheric Administration, inserting references to such Administration and the Secretary of Commerce in subsecs. (a), (b)(4), (c), (f), and (g) as the executive officer for effecting such benefits.

1969—Subsec. (b)(1). Pub. L. 91-152, § 105, inserted reference to section 1715y(c) of this title.

Subsec. (b)(2). Pub. L. 91-152, § 113(f), substituted "$33,000" for "$30,000".

Subsec. (b)(3). Pub. L. 91-152, § 102(c), substituted "$25,000" for "$20,000" wherever appearing therein.

1968—Subsec. (a). Pub. L. 90-448, § 301(1), substituted "Secretary of Transportation" for "Secretary of the Treasury" in two instances.

Subsec. (c). Pub. L. 90-448, § 301(1), substituted "Secretary of Transportation" for "Secretary of the Treasury" in two instances.

Subsecs. (f), (g). Pub. L. 90-448, § 301(2), added subsecs. (f) and (g). A prior subsec. (f) was repealed by Pub. L. 89-117.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b)(2) and (c) of this section.

1965—Subsec. (b)(2). Pub. L. 89-117, § 212(1), substituted "$30,000" for "$20,000".

Subsec. (b)(3). Pub. L. 89-117, § 212(2), substituted provisions prohibiting the mortgage to have a principal obligation in excess of the sum of (i) 97 per centum of $15,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, (ii) 90 per centum of such value in excess of $15,000 but not in excess of $20,000, and (iii) 85 per centum of such value in excess of $20,000 for provisions which prohibited the mortgage to have a principal obligation in an amount in excess of 95 per centum of the appraised value of the property or such higher amount as may be derived by applying the maximum ratio of loan to value prescribed in section 1709(b)(2) of this title.

Subsec. (e). Pub. L. 89-117, § 1108(j)(1), substituted "General Insurance Fund" for "Servicemen's Mortgage Insurance Fund".

Subsec. (f). Pub. L. 89-117, § 1108(j)(2), repealed subsec. (f), which created the Servicemen's Mortgage Insurance Fund, provided for the transfer of funds thereto, and authorized the purchase and cancellation of debentures and the payment and credit of charges.

1964—Subsec. (b)(1). Pub. L. 88-560, § 115(1), inserted a reference to section 1715l(d)(2) of this title.

Subsec. (b)(2). Pub. L. 88-560, § 115(2), substituted "or section 1715l(d)(2) of this title such principal obligation shall not exceed the maximum limits prescribed for such section" for "such principal obligation shall not exceed $9,000".

1959—Subsec. (b)(1). Pub. L. 86-372, § 111(1), inserted a reference to section 1709(i) of this title.

Subsec. (b)(2). Pub. L. 86-372, § 111(2), substituted "$20,000, except that in the case of a mortgage meeting the requirements of section 1709(i) of this title such principal obligation shall not exceed $9,000" for "$17,100".

Subsec. (e). Pub. L. 86-372, § 116(b), inserted a reference to subsec. (k) of section 1710 of this title.

1957—Subsec. (b). Pub. L. 85-104, § 103, substituted clauses (1), (2), and (3), for former provision which read: "In addition to mortgages insured under section 1709 of this title, the Commissioner may, for the purpose of this section, insure any mortgage under this section which would be eligible for insurance under section 1709 of this title, except that as to mortgages so insured the maximum ratio of loan to value may, in the discretion of the Commissioner, exceed the maximum ratio of loan to value prescribed in said section but not to exceed in any event 95 per centum of the appraised value of the property and not to exceed $17,100:", and which designated former proviso as clause (4).

Subsec. (e). Pub. L. 85-104, § 112, substituted "(h), and (j) of section 1710 of this title" for "and (h) of section 1710 of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715n, 1715q of this title; title 42 section 1594a-1.

§ 1715n. Miscellaneous mortgage insurance

(a) Projects covered

Notwithstanding any of the provisions of this chapter and without regard to limitations upon eligibility contained in any section or subchapter of this chapter, the Secretary is authorized, upon application by the mortgagee, to insure or make commitments to insure under any section or subchapter of this chapter any mortgage—

(1) executed in connection with the sale by the Government, or any agency or official thereof, of any housing acquired or constructed under Public Law 849, Seventy-sixth Congress, as amended; Public Law 781, Seventy-sixth Congress, as amended; or Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof); or

(2) executed in connection with the sale by the Secretary of Housing and Urban Development, or by any public housing agency with the approval of the Secretary, of any housing (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof) owned or financially assisted pursuant to the provisions of Public Law 671, Seventy-sixth Congress; or

(3) executed in connection with the sale by the Government, or any agency or official thereof, of any of the so-called Greenbelt towns, or parts thereof, including projects, or parts thereof, known as Greenhills, Ohio; Greenbelt, Maryland; and Greendale, Wisconsin, developed under the Emergency Relief Appropriation Act of 1935, or of any of the village properties or employee's housing under the jurisdiction of Tennessee Valley Authority, or of any housing under the jurisdiction of the Department of the Interior located within the town area of Coulee Dam, Washington, acquired by the United States for the construction, operation, and maintenance of Grand Coulee Dam and its appurtenant works: *Provided*, That for the purpose of the application of this subchapter to sales by the Secretary of the Interior pursuant to subsections 3(b)(1) and 3(b)(2) of the Coulee Dam Community Act of 1957, the selling price of the property involved shall be deemed to be the appraised value, of any permanent housing under the jurisdiction of the Department of the Interior constructed under the Boulder Canyon Project Act of December 21, 1928, as amended and supplemented [43 U.S.C. 617 et seq.] located within the Boulder City municipal area: *Provided*, That for purposes of the application of this subchapter to sales by the Secretary of the Interior pursuant to subsections 3(b)(1) and 3(b)(2) of the Boulder City Act of 1958, the selling price of the property involved shall be deemed to be the appraised value; or

(4) executed in connection with the sale by the Government, or any agency or official thereof, of any housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof) pursuant to the Atomic Energy Community Act of 1955, as amended [42 U.S.C. 2301 et seq.]: *Provided*, That such insurance shall be issued without regard to any preferences or priorities except those prescribed by this chapter or the Atomic Energy Community Act of 1955, as amended; or

(5) executed in connection with the sale by a State or municipality, or an agency, instrumentality, or political subdivision of either, of a project consisting of any permanent housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof), constructed by or on behalf of such State, municipality, agency, instrumentality, or political subdivision, for the occupancy of veterans of World War II, or Korean veterans, their families, and others; or

(6) executed in connection with the first resale, within two years from the date of its acquisition from the Government, of any portion of a project or property of the character described in paragraphs (1), (2), (3), and (4) above; or

(7) given to refinance an existing mortgage insured under this chapter: *Provided,* That the principal amount of any such refinancing mortgage shall not exceed the original principal amount or the unexpired term of such existing mortgage and shall bear interest at a rate not in excess of the maximum rate prescribed under the applicable section or subchapter of this chapter, except that in any case involving the refinancing of a loan in which the Secretary determines that the insurance of a mortgage for an additional term will inure to the benefit of the applicable insurance fund, taking into consideration the outstanding insurance liability under the existing insured mortgage, such refinancing mortgage may have a term not more than twelve years in excess of the unexpired term of such existing insured mortgage: *Provided further,* That a mortgage of the character described in paragraphs (1) through (6) of this subsection shall have a maturity, a principal obligation, and an interest rate not in excess of the maximums prescribed under the applicable section or subchapter of this chapter, except that in no case may the principal obligation of a mortgage referred to in paragraph (5) of this subsection exceed 90 per centum of the appraised value of the mortgaged property; or

(8) executed in connection with the sale by the Government of any housing acquired pursuant to section 1013 of the Demonstration Cities and Metropolitan Act of 1966 [42 U.S.C. 3374].

(b) Insurance of mortgages given to refinance mortgages covering existing property or projects in urban renewal areas

Notwithstanding any of the provisions of this subchapter and without regard to limitations upon eligibility contained in section 1715*l* of this title, the Secretary may in his discretion insure under section 1715*l*(d)(3) of this title any mortgage executed by a mortgagor of the character described therein where such mortgage is given to refinance a mortgage covering an existing property or project (other than a one- to four-family structure) located in an urban renewal area, if the Secretary finds that such insurance will facilitate the occupancy of dwelling units in the property or project by families of low or moderate income or families displaced from an urban renewal area or displaced as a result of governmental action.

(c) Insurance of certain assigned mortgages

The Secretary shall also have authority to insure under this chapter any mortgage assigned to him in connection with payment under a contract of mortgage insurance or executed in connection with the sale by him of any property acquired under any section or subchapter of this chapter without regard to any limitations or requirements contained in this chapter upon the eligibility of the mortgage, upon the payment of insurance premiums, or upon the terms and conditions of insurance settlement and the benefits of the insurance to be included in such settlement.

(d) Addition to mortgage of expenses in excess of project income; loan as obligation of specified fund

With respect to any mortgage, other than a mortgage covering a one- to four-family structure, heretofore or hereafter insured by the Secretary, and notwithstanding any other provision of this chapter, when the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by such mortgage during the first two years following the date of completion of the project, as determined by the Secretary, exceed the project income, the Secretary may, in his discretion and upon such terms and conditions as he may prescribe, insure under the same section as the original mortgage a loan by the mortgagee in an amount not exceeding the excess of the foregoing expenses over the project income. Such loan shall (1) bear interest (exclusive of premium charges for insurance) at not to exceed the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured, (2) be secured in such manner as the Secretary shall require, and (3) be limited to a term not exceeding the unexpired term of the original mortgage. The Secretary is authorized to collect a premium charge for insurance of loans pursuant to this subsection in any amount computed at the same premium rate as is applicable to the original mortgage. This premium shall be payable in cash or in debentures of the insurance fund under which the loan is insured at par plus accrued interest. In the event of a failure of the borrower to make any payment due under such loan or under the original mortgage, both the loan and original mortgage shall be considered in default, and if such default continues for a period of thirty days, the lender shall be entitled to insurance benefits, computed in the same manner as for the original mortgage, except that in determining the interest rate under section 1715*o* of this title for the debentures representing the portion of the claim applicable to the loan, the date of the commitment to insure the loan and the insurance date of the loan shall be taken into consideration rather than the commitment or insurance date for the original mortgage. A loan involving a project covered by a mortgage insured under section 1715e of this title that is the obligation of the Cooperative Management Housing Insurance Fund shall be the obligation of such fund, and loans involving projects covered by a mortgage insured under section 1715z–1 of this title or under any section of this subchapter pursuant to subsection (e) of this section shall be the obligation of the Special Risk Insurance Fund.

(e) Insurance of mortgages executed in connection with repair, rehabilitation, construction, or purchase of property in older, declining urban areas

Notwithstanding any of the provisions of this chapter except section 1715c of this title, and without regard to limitations upon eligibility contained in any section of this subchapter or subchapter IX-B of this chapter, the Secretary

is authorized, upon application by the mortgagee, to insure under any section of this subchapter or subchapter IX-B of this chapter a mortgage executed in connection with the repair, rehabilitation, construction, or purchase of property located in an older, declining urban area in which the conditions are such that one or more of the eligibility requirements applicable to the section or subchapter under which insurance is sought could not be met if the Secretary finds that (1) the area is reasonably viable, giving consideration to the need for providing adequate housing or group practice facilities for families of low and moderate income in such area, and (2) the property is an acceptable risk in view of such consideration. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

(f) Insurance of mortgages executed in connection with purchase of refinancing of existing multifamily housing project; terms and conditions for refinancing of property located in older, declining urban areas

Notwithstanding any of the provisions of this chapter, the Secretary is authorized, in his discretion, to insure under any section of this subchapter a mortgage executed in connection with the purchase of refinancing of an existing multifamily housing project. In the case of refinancing under this subsection of property located in an older, declining urban area, the Secretary shall prescribe such terms and conditions as he deems necessary to assure that—

(1) the refinancing is used to lower the monthly debt service only to the extent necessary to assure the continued economic viability of the project, taking into account any rent reductions to be implemented by the mortgagor; and

(2) during the mortgage term no rental increases shall be made except those which are necessary to offset actual and reasonable operating expense increases or other necessary expense increases approved by the Secretary.

(g) Insurance of mortgages covering multifamily housing projects including units not self-contained

Notwithstanding any other provisions of this chapter, the Secretary may, in his discretion, insure a mortgage covering a multifamily housing project including units which are not self-contained.

(June 27, 1934, ch. 847, title II, § 223, as added Aug. 2, 1954, ch. 649, title I, § 125, 68 Stat. 605, and amended Aug. 4, 1955, ch. 543, ch. 11, § 201, 69 Stat. 484; Aug. 11, 1955, ch. 783, title I, § 102(k), 69 Stat. 636; July 12, 1957, Pub. L. 85-104, title I, § 114, 71 Stat. 298; Aug. 30, 1957, Pub. L. 85-240, § 4, 71 Stat. 528; Sept. 2, 1958, Pub. L. 85-900, § 12, 72 Stat. 1735; June 30, 1961, Pub. L. 87-70, title I, § 101(d), title VI, § 612(h), 75 Stat. 154, 182; Sept. 2, 1964, Pub. L. 88-560, title I, § 116, 78 Stat. 779; Aug. 10, 1965, Pub. L. 89-117, title I, § 108(e), title II, § 213, 79 Stat. 461, 471; Nov. 3, 1966, Pub. L. 89-754, title X, § 1013(h), 80 Stat. 1292; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (h), 81 Stat. 17, 18; Aug. 1, 1968, Pub. L. 90-448, title I, § 103(a), title III, § 312, 82 Stat. 486, 510; Dec. 24, 1969, Pub. L. 91-152, title IV, § 418(c), (d), 83 Stat. 402; Aug. 22, 1974, Pub. L. 93-383, title III, § 311(a), 88 Stat. 683.)

References in Text

Public Law 849, Seventy-sixth Congress, as amended, referred to in subsec. (a)(1), is act Oct. 14, 1940, ch. 862, 54 Stat. 1125, as amended, popularly known as the "Lanham Public War Housing Act", and is classified to subchapters II to VII (§§ 1521 et seq., 1531 et seq., 1541 et seq., 1561 et seq., 1571 et seq., and 1581 et seq.) of chapter 9 of Title 42, The Public Health and Welfare.

Public Laws 9, 73, and 353, Seventy-seventh Congress, referred to in subsec. (a)(1), refer to the following acts, respectively: Public Law 9, Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14; Public Law 73, Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197; and Public Law 353, Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810. These three acts appropriated a total of $320,000,000 to the President for the purpose of providing housing necessary because of national defense activities and conditions arising out of World War II. These provisions were not classified to the code, although all three acts are cited in a "Prior Additional Appropriations" note under section 1523 of Title 42, The Public Health and Welfare.

Public Law 671, Seventy-sixth Congress, referred to in subsec. (a)(2), is act June 28, 1940, ch. 440, 54 Stat. 676. Provisions of the Act relating to housing are contained in title II thereof, and are classified to subchapter I (§ 1501 et seq.) of chapter 9 of Title 42.

The Emergency Relief Appropriation Act of 1935, referred to in subsec. (a)(3), is Joint Res. Apr. 8, 1935, ch. 48, 49 Stat. 115. It was temporary legislation, and was formerly set out in a note in former chapter 16 of Title 15, Commerce and Trade. See notes under former sections 721 to 728 of that title.

Subsections 3(b)(1) and 3(b)(2) of the Coulee Dam Community Act of 1957 [Pub. L. 85-240, Aug. 30, 1957, 71 Stat. 524], referred to in subsec. (a)(3), are set out in a note under section 835c of Title 16, Conservation.

The Boulder Canyon Project Act of December 21, 1928, as amended and supplemented, referred to in subsec. (a)(3), is classified to subchapter I (§ 617 et seq.) of chapter 12A of Title 43, Public Lands.

Subsections 3(b)(1) and 3(b)(2) of the Boulder City Act of 1958 [Pub. L. 85-900, Sept. 2, 1958, 72 Stat. 1726], referred to in subsec. (a)(3), are not classified to the Code. Subsections (a) to (d) of section 3 read as follows:

"(a) The Secretary is authorized to sell such dwelling houses, duplex houses or units thereof, and garages, with furniture, fixtures, and appurtenances, as are owned by the United States within the Boulder City municipal area and are not needed in connection with the administration, operation, and maintenance of Federal activities located within or near the Boulder City municipal area.

"(b) Except in the case of property determined to be substandard under subsection (c) of this section, the following system of priority shall be established with respect to property authorized to be sold under subsection (a) of this section:

"(1) Persons employed by the Federal Government within or near the Boulder City municipal area (and surviving spouses of such persons who have not remarried) who are tenants in Federal housing in Boulder City shall be offered the opportunity to purchase the property in which they are tenants at the appraised value as established under subsection (d) of this section. This right of priority shall expire unless notice of intent to purchase has been received by the Secretary before the expiration of sixty days after the date on which the property has been offered for sale, and shall be deemed abandoned unless before the expiration of sixty days after the Secretary's tender of the instrument of transfer the prospective purchaser concludes the sale;

"(2) Persons employed by the Federal Government within or near the Boulder City municipal area may

apply to purchase housing not purchased under subsection (b)(1) of this section. Applicants to purchase shall be placed in order of opportunity to choose pursuant to a public drawing, but spouses of such applicants shall not be entitled to apply. Sales shall be made at the appraised value as established under subsection (d) of this section and selections and purchases by successful applicants shall be concluded within limits of time to be established by the Secretary. A purchase under subsection (b)(1) or (b)(2) of this section shall render the purchaser and any spouse of such purchaser ineligible thereafter to purchase under subsection (b)(1) or (b)(2); and

"(3) Property subject to disposal under this section and not sold pursuant to subsections (b)(1) and (b)(2) of this section shall be opened to bids from the general public, and shall be sold to the highest responsible bidder.

"In the event that incorporation of the municipality shall be effected within four years after the date of this Act, persons purchasing housing under this subsection or their successors, assigns, or legal representatives, shall be entitled to a reduction in the purchase price (or rebate as appropriate) of 10 per centum: *Provided*, That no person who has purchased a house under the Act of May 25, 1948 (62 Stat. 268), shall be eligible for such reduction.

"(c) Where the Secretary determines that property authorized to be sold under subsection (a) of this section is substandard, he shall sell such property only for off-site use, such property to be opened to bids from the general public for sale to the highest responsible bidder.

"(d) The appraised value of all property to be sold under subsections (b)(1) and (b)(2) of this section, and of all lots leased or to be leased by the United States for the purpose of maintaining, locating, or erecting permanent structures thereon, shall be determined by an appraiser or appraisers to be designated by the Administrator of Housing and Home Finance Agency at the request of the Secretary. Said appraisals shall be made promptly after the date of this Act, or immediately prior to the granting of any lease of lands not previously appraised, as the case may be. The representatives of the Boulder City community, as determined by the Secretary, shall be granted an opportunity to offer advice in connection with [sic] such appraisals."

The Atomic Energy Community Act of 1955, as amended, referred to in subsec. (a)(4), is classified to chapter 24 (§ 2301 et seq.) of Title 42, The Public Health and Welfare.

AMENDMENTS

1974—Subsecs. (f), (g). Pub. L. 93-383 added subsecs. (f) and (g).

1969—Subsec. (d). Pub. L. 91-152, § 418(c), added the provision that any loan involving a project covered by a mortgage insured under section 1715e, 1715z-1, or any section of this subchapter pursuant to subsec. (e) of this section be the obligation of the specified Fund.

Subsec. (e). Pub. L. 91-152, § 418(d), substituted "this chapter" for "this subchapter" and inserted references to subchapter IX-B of this chapter.

1968—Subsec. (a). Pub. L. 90-448, § 312(a)(1), substituted "chapter" for "subchapter", "any section or subchapter of this chapter" for "section 1709, 1713, 1715e, 1715k, 1715*l*, 1715m, 1715v, 1715w, or 1715x of this title" and "under any section or subchapter of this chapter" for "under either of said sections".

Subsec. (a)(7). Pub. L. 90-448, § 312(a)(2), substituted "prescribed under the applicable section or subchapter of this chapter" for "applicable to loans insured under section 1709, 1713, 1715e, 1715k, 1715*l*, 1715m, 1715v, 1715w, or 1715x of this title" in two instances.

Subsec. (c). Pub. L. 90-448, § 312(a)(3) to (5), substituted "this chapter" for "this subchapter" in two instances, and "any section or subchapter of this chapter" for "subchapters I, II, VI, VII, VIII or X of this chapter", and eliminated phrase which required payment of insurance to be in debentures.

Subsec. (d). Pub. L. 90-448, § 312(b), substituted "insure under the same section as the original mortgage a loan by a mortgagee in an amount not exceeding the excess of the foregoing expenses over the project income" for "permit the excess of the foregoing expenses over the project income to be added to the amount of such mortgage, and extend the coverage of the mortgage insurance thereto, and such additional amount shall be deemed to be part of the original face amount of the mortgage", and inserted sentences requiring the loan to bear interest at not more than the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured, to be secured, and to be limited to a term not more than the unexpired term of the original mortgage, authorizing collection of a premium charge for insurance of loans, directing the premium to be payable in cash or in debentures of the fund, and making the lender entitled to insurance benefits in the event of a failure of the borrower to make any payment due under the loan or under the original mortgage and the default continues for a period of thirty days.

Subsec. (e). Pub. L. 90-448, § 103(a), added subsec. (e).

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) preceding par. (1), (a)(7), and (b) to (d) of this section.

Subsec. (a)(2). Pub. L. 90-19, § 1(h), substituted "Secretary of Housing and Urban Development" and "Secretary" for "Public Housing Administration" and "said Administration", respectively.

1966—Subsec. (a)(8). Pub. L. 89-754 substituted "Government" and "section 3374 of Title 42" for "Commissioner" and "section 1735h of this title", respectively.

1965—Subsec. (a)(7). Pub. L. 89-117, § 213, substituted "this Act" for "section 608 of title VI prior to the effective date of the Housing Act of 1954 or under section 220, 221, 903, or section 908", which for purposes of codification has been changed to "this chapter".

Subsec. (a)(8) Pub. L. 89-117, § 108(e)(2), added subsec. (a)(8).

1964—Subsec. (c). Pub. L. 88-560 substituted "limitations or requirements contained in this subchapter upon the eligibility of the mortgage, upon the payment of insurance premiums, or upon the terms and conditions of insurance settlement and the benefits of the insurance to be included in such settlement (except that in any case the payment of insurance shall be in debentures)" for "limitation upon eligibility contained in this subchapter".

1961—Subsec. (a). Pub. L. 87-70, § 612(h)(1), (2), included sections 1715k, 1715*l*, 1715v, 1715w and 1715x in the opening provisions, and, in par. (7), substituted "section 1715k, 1715*l*, 1750b, or 1750g of this title" for "section 1750b or 1750g of this title," "1715e, 1715k, 1715*l*, 1715m, 1715v, 1715w, or 1715x of this title" for "1715e or 1715m of this title" in two instances, and eliminated "insured under section 1743 of section 1750g of this title" which followed "refinancing of a loan".

Subsec. (b). Pub. L. 87-70, § 101(d), added subsec. (b). Former subsec. (b) redesignated as (c).

Subsec. (c). Pub. L. 87-70, § 101(d), redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 87-70, § 612(h)(3), added subsec. (d).

1958—Subsec. (a)(3). Pub. L. 85-900 authorized insurance of mortgages executed in connection with the sale of property constructed under the Boulder Canyon Project Act and located in Boulder City.

1957—Subsec. (a). Pub. L. 85-104, § 114(1), substituted "1715e, or 1715m of this title" for "or 1715e of this title".

Subsec. (a)(3). Pub. L. 85-240 authorized insurance of mortgages executed in connection with the sale of Government housing at Coulee Dam.

Subsec. (a)(4). Pub. L. 85-104, § 114(2), inserted "this chapter or" after the words "prescribed by".

Subsec. (a)(7). Pub. L. 85-104, § 114(3), substituted "1715e, or 1715m of this title" for "or 1715e of this

title" in first proviso, and substituted provisions of second proviso for former provisions which required mortgages described in pars. (1), (2), (3), (4), (5), or (6) to have maturity satisfactory to Commissioner but forbade maturity of such mortgage to exceed maximum terms of loans insured under sections 1709, 1713, or 1715e of this title, forbade principal obligation to exceed 90 percent of value of property, and forbade interest rate to exceed rate of loans made under either of said sections, with the exception that where such mortgage covered property held by certain nonprofit cooperatives, principal obligation should not exceed 95 percent of appraised value.

1955—Subsec. (a). Act Aug. 11, 1955, substituted "section 1709, 1713, or 1715e of this title" for "section 1709 or 1713 of this title" wherever appearing.

Act Aug. 4, 1955, added par. 4, and renumbered pars. 4 to 6 as 5 to 7, respectively.

PURPOSE OF SECTION

Section 125 of act Aug. 2, 1954, as amended by Pub. L. 90-19, § 10(b), May 25, 1967, 81 Stat. 22, in enacting this section, provided in part that the purpose thereof was to transfer to title II of the National Housing Act [this subchapter] "the mortgage insurance program in connection with the sale of certain publicly owned property as contained in section 610 of title VI [section 1745 of this title]; the insurance of mortgages to refinance existing loans insured under section 608 of title VI and sections 903 and 908 of title IX [sections 1743, 1750b and 1750g of this title]; and to authorize the insurance under title II [this subchapter] of mortgages assigned to the Secretary of Housing and Urban Development under insurance contracts and mortgages held by the Secretary of Housing and Urban Development in connection with the sale of property acquired under insurance contracts".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715z-3, 1735c of this title; title 42 sections 2331, 2362.

§ 1715o. Interest rate on debentures; method of establishment

Notwithstanding any other provisions of this chapter, debentures issued under any section of this chapter with respect to a loan or mortgage accepted for insurance on or after thirty days following August 2, 1954 (except debentures issued pursuant to paragraph (4) of section 1715*l*(g) of this title) shall bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed for insurance, or (when there are two or more insurance endorsements) the date the loan or mortgage was initially endorsed for insurance, whichever rate is the highest, except that debentures issued pursuant to section 1715k(f), 1715k(h)(7), 1715*l*(g), 1715x, or 1715z-3 of this title may, at the discretion of the Secretary, bear interest at the rate in effect on the date they are issued. The Secretary shall from time to time, with the approval of the Secretary of the Treasury, establish such interest rate in an amount not in excess of the annual rate of interest determined by the Secretary of the Treasury, at the request of the Secretary, by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the calendar month next preceding the establishment of such rate of interest, on all outstanding marketable obligations of the United States having a maturity date of fifteen years or more from the first day of such next preceding month, and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum.

(June 27, 1934, ch. 847, title II, § 224, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 606, and amended June 30, 1961, Pub. L. 87-70, title VI, § 612(i), 75 Stat. 182; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title I, § 104(b), 82 Stat. 488.)

AMENDMENTS

1968—Pub. L. 90-448 included debentures issued pursuant to section 1715z-3 of this title.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1961—Pub. L. 87-70 changed the date for determination of the rate of interest for debentures, other than those issued pursuant to section 1715k(f), 1715k(h)(7), 1715*l*(g), 1715*l*(g)(4), or 1715x, from the rate in effect on the date the debentures are issued to the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed for insurance, or (when there are two or more insurance endorsements) the date the loan or mortgage was initially endorsed for insurance, whichever rate is highest.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1710, 1713, 1715n, 1748b of this title.

§ 1715p. Insurance of advances under open-end mortgages; payment of charges; eligibility and conditions

Notwithstanding any other provisions of this chapter, in connection with any mortgage insured pursuant to any section of this chapter which covers a property upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, the Secretary is authorized, upon such terms and conditions as he may prescribe, to insure under said section the amount of any advance for the improvement or repair of such property made to the mortgagor pursuant to an "open-end" provision in the mortgage, and to add the amount of such advance to the original principal obligation in determining the value of the mortgage for the purpose of computing the amounts of debentures and certificate of claim to which the mortgagee may be entitled: *Provided,* That the Secretary may require the payment of such charges, including in lieu of insurance premiums, as he may consider appropriate for the insurance of such "open-end" advances: *Provided, further,* That only advances for such improvements or repairs as substantially protect or improve the basic livability or utility of the property involved shall be eligible for insurance under this section; *Provided further,* That no such advance shall be insured under this section if the amount thereof plus the amount of the unpaid balance of the original principal obligation of the mortgage would exceed the amount of such original principal obligation unless the mortgagor certifies that the proceeds of such advance will be used to finance the construction of additional rooms or other enclosed space as a part of the dwelling: *And provided further,* That the insurance of "open-end" advances shall not be taken into account in determining the aggregate amount of principal obligations of mortgages which may be insured under this chapter.

(June 27, 1934, ch. 847, title II, § 225, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 607, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715y of this title.

§ 1715q. Delivery of statement of appraisal or estimates to home buyers

The Secretary is authorized and directed to require that in connection with any property upon which there is located a dwelling designed principally for a single-family residence or a two-family residence and which is approved for mortgage insurance under section 1709 or 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (2) of subsection (a) of section 1715e of this title, or sections 1715k, 1715*l*, 1715m, 1715x, 1715y, 1715z(i), 1715z-2, or 1750b of this title, the seller or builder or such other person as may be designated by the Secretary shall agree to deliver, prior to the sale of the property, to the person purchasing such dwelling for his own occupancy, a written statement setting forth the amount of the appraised value of the property as determined by the Secretary. This section shall not apply in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to August 2, 1954. Notwithstanding the first sentence of this section, the Secretary is authorized to require, in connection with any mortgage where the mortgage amount is computed on the basis of the Secretary's estimate of the replacement cost of the property, or on the basis of any other estimates of the Secretary, that a written statement setting forth such estimate or estimates, as the case may be, be furnished under this section in lieu of a written statement setting forth the amount of the appraised value of the property.

(June 27, 1934, ch. 847, title II, § 226, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 607, and amended July 12, 1957, Pub. L. 85-104, title I, § 115, 71 Stat. 298; June 30, 1961, Pub. L. 87-70, title VI, § 612(j), 75 Stat. 182; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title I, § 102(b), 82 Stat. 486.)

AMENDMENTS

1968—Pub. L. 90-448 inserted references to sections 1715z(i) and 1715z-2 of this title.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing and "Secretary's" for "Commissioner's", respectively.

1961—Pub. L. 87-70 inserted references to sections 1715x and 1715y of this title, and substituted "or on the basis of any other estimates of the Commissioner, that a written statement setting forth such estimate or estimates, as the case may be," for "that a written statement setting forth such estimate".

1957—Pub. L. 85-104 added sentence authorizing estimate of replacement cost in lieu of an estimate of value where mortgage amount is based upon replacement cost.

§ 1715r. Requirement of builder's cost certification; definitions

Notwithstanding any other provision of this chapter, no mortgage covering new or rehabilitated multifamily housing or a property or project described in subchapter IX-B of this chapter shall be insured under this chapter unless the mortgagor has agreed (a) to certify, upon completion of the physical improvements on the mortgaged property or project and prior to final endorsement of the mortgage, either (i) that the approved percentage of actual cost (as those terms are herein defined) equaled or exceeded the proceeds of the mortgage loan or (ii) the amount by which the proceeds of the mortgage loan exceeded such approved percentage of actual cost, as the case may be, and (b) to pay forthwith to the mortgagee, for application to the reduction of the principal obligation of such mortgage, the amount, if any, certified to be in excess of such approved percentage of actual cost. Upon the Secretary's approval of the mortgagor's certification as required hereunder, such certification shall be final and incontestable, except for fraud or material misrepresentation on the part of the mortgagor. As used in this section—

(a) The term "new or rehabilitated multifamily housing" means a project or property approved for mortgage insurance prior to the construction or the repair and rehabilitation involved and covered by a mortgage insured or to be insured (i) under section 1713 of this title, (ii) under section 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of section 1715e of this title or with respect to any property or project of a mortgagor of the character described in paragraph (3) of subsection (a) thereof, (iii) under section 1715k of this title if the mortgage meets the requirements of paragraph (3)(B) of subsection (d) thereof, (iv) under section 1715*l* of this title if the mortgage meets the requirements of paragraph (3) or paragraph (4) of subsection (d) thereof, (v) under section 1715v of this title, (vi) under section 1715x of this title if the mortgage meets the requirements of subsection (b), (vii) under section 1748h-2 of this title if the mortgage meets the requirements of subsection (f), (viii) under section 1715y(d) of this title, or (ix) under section 1715z-1 of this title;

(b) The term "approved percentage" means the percentage figure which, under applicable provisions of this chapter, the Secretary is authorized to apply to his estimate of value, cost, or replacement costs, as the case may be, of the property or project in determining the maximum insurable mortgage amount; except that if the mortgage is to assist the financing of repair or rehabilitation and no part of the proceeds will be used to finance the purchase of the land or structure involved, the approved percentage shall be 100 per centum; and

(c) The term "actual cost" has the following meaning: (i) in case the mortgage is to assist the financing of new construction, the term means the actual cost to the mortgagor of such construction, including amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organizational and legal expenses, such allocations of general overhead

items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus (1) a reasonable allowance for builder's profit if the mortgagor is also the builder as defined by the Secretary, and (2) an amount equal to the Secretary's estimate of the fair market value of any land (prior to the construction of the improvements built as a part of the project) in the property or project owned by the mortgagor in fee (or, in case the land in the property or project is held by the mortgagor under a leasehold or other interest less than a fee, such amount as the mortgagor paid for the acquisition of such leasehold or other interest but, in no event, in excess of the fair market value of such leasehold or other interest exclusive of the proposed improvements), but excluding the amount of any kickbacks, rebates, or trade discounts received in connection with the construction of the improvements, or (ii) in case the mortgage is to assist the financing of repair or rehabilitation the terms means the actual cost to the mortgagor of such repair or rehabilitation, including the amounts paid for labor, materials, construction contracts, offsite public utilities, streets, organization and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus (1) a reasonable allowance for builder's profit if the mortgagor is also the builder as defined by the Secretary, and (2) an additional amount equal to (A) in case the land and improvements are to be acquired by the mortgagor and the purchase price thereof is to be financed with part of the proceeds of the mortgage, the purchase price of such land and improvements prior to such repair or rehabilitation, or (B) in case the land and improvements are owned by the mortgagor subject to an outstanding indebtedness to be refinanced with part of the proceeds of the mortgage, the amount of such outstanding indebtedness secured by such land and improvements, but excluding (for the purposes of this clause (ii)) the amount of any kickbacks, rebates, or trade discounts received in connection with the construction of the improvements: *Provided,* That such additional amount under (A) of this clause (ii) shall in no event exceed the Secretary's estimate of the fair market value of such land and improvements prior to such repair or rehabilitation, and such additional amount under (B) of this clause (ii) shall in no event exceed the approved percentage of the Secretary's estimate of the fair market value of such land and improvements prior to such repair or rehabilitation. In the case of a mortgage insured under section 1715k, 1715*l*(d)(3), 1715*l*(d)(4), 1715v, 1715x, or 1715z–1 of this title where the mortgagor is also the builder as defined by the Secretary, there shall be included in the actual cost, in lieu of the allowance for builder's profit under clause (i) or (ii) of the preceding sentence, an allowance for builder's and sponsor's profit and risk of 10 per centum (unless the Secretary, after finding that such allowance is unreasonable, shall by regulation prescribe a lesser percentage) of all other items entering into the term "actual cost" except land or amounts paid for a leasehold and amounts included under either (A) or (B) of clause (ii) of the preceding sentence. In the case of a mortgage insured under section 1715k, 1715*l*(d)(3), 1715*l*(d)(4), 1715v, 1715x, or 1715z–1 of this title, where the mortgagor is not also the builder as defined by the Secretary, there shall be included in the actual cost an allowance for sponsor's profit and risk of the said 10 per centum or lesser percentage of all other items entering into the term "actual cost" except land or amounts paid for a leasehold, amounts included under either (A) or (B) of the said clause (ii), and amounts paid by the mortgagor under a general construction contract.

(June 27, 1934, ch. 847, title II, § 227, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 607, and amended Aug. 11, 1955, ch. 783, title I, § 102(i), 69 Stat. 636; Aug. 7, 1956, ch. 1029, title I, §§ 105(d), 109, 70 Stat. 1094, 1095; Sept. 23, 1959, Pub. L. 86–372, title I, § 112, 73 Stat. 661; June 30, 1961, Pub. L. 87–70, title VI, § 612(k), 75 Stat. 183; Sept. 2, 1964, Pub. L. 88–560, title I, § 119(c), 78 Stat. 782; Nov. 3, 1966, Pub. L. 89–754, title V, § 502(b), title X, § 1020(b), 80 Stat. 1277, 1295; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title II, § 201(b)(2), (3), 82 Stat. 502.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–448, § 201(b)(2), included mortgages insured or to be insured under section 1715z–1 of this title.

Subsec. (c). Pub. L. 90–448, § 201(b)(3), substituted "section 1715x, or 1715z–1 of this title" for "section 1715x(b)(2) of this title", in two instances.

1967—Pub. L. 90–19 substituted "Secretary" for "Commissioner" in subsecs. (b) and (c) of this section and "Secretary's" for "Commissioner's" in text preceding subsec. (a) and in subsec. (c) of this section, wherever appearing, respectively.

1966—Pub. L. 89–754, § 502(b), made the certification requirement applicable to mortgage covering property or project described in subchapter IX–B of this chapter.

Subsec. (a). Pub. L. 89–754, § 1020(b), substituted "subsection (b)" for "subsection (b)(2)" in cl. (vi).

1964—Subsec. (a). Pub. L. 88–560 included mortgages insured or to be insured under section 1715y(d) of this title.

1961—Subsec. (a). Pub. L. 87–70, § 612(k)(1), included property covered by a mortgage insured or to be insured under section 1715x of this title if the mortgage meets the requirements of subsection (b)(2).

Subsec. (b). Pub. L. 87–70, § 612(k)(2), substituted "value, cost, or replacement cost" for "value or replacement cost".

Subsec. (c). Pub. L. 87–70, § 612(k)(3), substituted "section 1715*l*(d)(3), 1715*l*(d)(4), 1715v, or 1715x(b)(2) of this title" for "section 1715*l* of this title if the mortgage meets the requirements of paragraph (4) of subsection (d) thereof, or section 1715v of this title" in the second and third sentences.

1959—Subsec. (a). Pub. L. 86–372, § 112(a), included mortgages insured or to be insured under subsec. (d)(4) of section 1715*l* of this title, under section 1715v of this title, and under section 1748h–2 of this title, and eliminated provisions which related to mortgages insured or to be insured under sections 1748b, 1750b and 1750g of this title.

Subsec. (c). Pub. L. 86–372, § 112(b), substituted "under section 1715k of this title, section 1715*l* of this title if the mortgage meets the requirements of paragraph (4) of subsection (d) thereof, or section 1715v of this title" for "under section 1715k of this title" in two instances.

1956—Act Aug. 7, 1956, § 109, inserted sentence preceding par. (a), that upon Commissioner's approval, certification shall be final and incontestable, except for fraud or misrepresentation by mortgagor.

Par. (a). Act Aug. 7, 1956, § 105(d), inserted "or with respect to any property or project of a mortgagor of the character described in paragraph (3) of subsection (a) of section 1715e of this title," preceding "(iii)".

Par. (b). Act Aug. 7, 1956, § 109, inserted provision that if the insured mortgage is to assist financing of repairs and no part of proceeds will be used to purchase the land or structure involved, the approved percentage shall be 100 percent.

Par. (c). Act Aug. 7, 1956, § 109, inserted after "legal expenses" each place it appeared, "such allocations of general overhead items as are acceptable to the Commissioner,"; eliminated "(without reduction by reason of the application of the approved percentage requirements of this section)" which preceded "secured by such land and improvements," in clause (ii)(B) by amended proviso to provide that additional amount under (B) of clause (ii) should not exceed the approved percentage of the Commissioner's estimate of the fair market value of the land and improvements; and added provisions at the end relating to 10 percent allowance for builder's profit in mortgages issued under section 1715k.

1955—Act Aug. 11, 1955, substituted "under section 1715*l* of this title if the mortgage meets the requirements of paragraph (3) of subsection (d) of such section" for "under section 1715*l* of this title".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701p, 1715e, 1748g, 1750g of this title; title 42 section 1434.

§ 1715s. Transferred

CODIFICATION

Section, which was based in part on act Aug. 2, 1954, ch. 649, title VIII, § 814, 68 Stat. 647, as amended, provided for the keeping of records with respect to multifamily housing and examination and audit thereof. Section 814 of act Aug. 2, 1954, is classified in toto to section 1434 of Title 42, The Public Health and Welfare.

§ 1715t. Voluntary termination of insurance

Notwithstanding any other provision of this chapter and with respect to any loan or mortgage heretofore or hereafter insured under this chapter, except under section 1703 of this title, the Secretary is authorized to terminate any insurance contract upon request by the borrower or mortgagor and the financial institution or mortgagee and upon payment of such termination charge as the Secretary determines to be equitable, taking into consideration the necessity of protecting the various insurance Funds. Upon such termination, borrowers and mortgagors and financial institutions and mortgagees shall be entitled to the rights, if any, to which they would be entitled under this chapter if the insurance contract were terminated by payment in full of the insured loan or mortgage.

(June 27, 1934, ch. 847, title II, § 229, as added Sept. 23, 1959, Pub. L. 86-372, title I, § 113, 73 Stat. 662, and amended June 30, 1961, Pub. L. 87-70, title VI, § 612(*l*), 75 Stat. 183; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(k), 79 Stat. 505; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1965—Pub. L. 89-117 struck out "and Accounts" following "various Insurance Funds".

1961—Pub. L. 87-70 authorized voluntary termination of insurance contracts with respect to loans insured under this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1710 of this title.

§ 1715u. Acquisition of mortgages by Secretary to avoid foreclosure

Upon receiving notice of the default of any mortgage covering a one-, two-, three-, or four-family residence heretofore or hereafter insured under this chapter, the Secretary, in his discretion and for the purpose of avoiding foreclosure of the mortgage, and notwithstanding the fact that he has previously approved a request of the mortgagee for an extension of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, or has approved a modification of the mortgage for the purpose of changing the amortization provisions by recasting the unpaid balance, may acquire the loan and security therefor upon payment of the insurance benefits in an amount equal to the unpaid principal balance of the loan plus any unpaid mortgage interest plus reimbursement for such costs and attorney's fees as the Secretary finds were properly incurred in connection with the defaulted mortgage and its assignment to the Secretary, and for any proper advances theretofore made by the mortgagee under the provisions of the mortgage. After the acquisition of such mortgage by the Secretary, the mortgagee shall have no further rights, liabilities, or obligations with respect thereto. The provisions of section 1710 of this title relating to the issuance of debentures incident to the acquisition of foreclosed properties shall apply with respect to debentures issued under this section, and the provisions of section 1710 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this section, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary.

(June 27, 1934, ch. 847, title II, § 230, as added Sept. 23, 1959, Pub. L. 86-372, title I, § 114 (a), 73 Stat. 662, and amended Sept. 2, 1964, Pub. L. 88-560, title I, § 104(b), 78 Stat. 770; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1964—Pub. L. 88-560 authorized the Commissioner to acquire the loan and security notwithstanding the fact that he has previously approved a request of the mortgagee for an extension of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property or has approved a modification of the mortgage for the purpose of changing the amortization provisions by recasting the unpaid balance and substituted provisions for acquisition of the loan and security upon payment of the insurance benefits in an amount equal to the unpaid principal balance of the loan plus any unpaid mortgage interest plus reimbursement for such costs and attorney's fees as the Commissioner finds were properly incurred in connection with the defaulted mortgage and its assignment to the Commissioner for former provision for such ac-

quisition upon issuance to the mortgagee of debentures having a total face value equal to the unpaid principal balance of the loan plus any accrued interest.

§ 1715v. Insurance of mortgages for housing for elderly persons

(a) Purpose; definitions

The purpose of this section is to assist in relieving the shortage of housing for elderly persons and to increase the supply of rental housing for elderly persons.

For the purposes of this section—

(1) the term "housing" means eight or more new or rehabilitated living units, not less than 50 per centum of which are specially designed for the use and occupancy of elderly persons;

(2) the term "elderly person" means any person, married or single, who is sixty-two years of age or over; and

(3) the terms "mortgage", "mortgagee", "mortgagor", and "maturity date" shall have the meanings respectively set forth in section 1713 of this title.

(b) Authorization

The Secretary is authorized to insure any mortgage (including advances on mortgages during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) Eligibility for insurance; maximum amount of mortgage; terms and conditions

To be eligible for insurance under this section, a mortgage to provide housing for elderly persons shall—

(1) Repealed. Pub. L. 93-383, title III, § 304(f), Aug. 22, 1974, 88 Stat. 678.

(2) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $18,450 per family unit without a bedroom, $20,625 per family unit with one bedroom, $24,630 per family unit with two bedrooms, $29,640 per family unit with three bedrooms, and $34,846 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $20,962 per family unit without a bedroom, $24,030 per family unit with one bedroom, $29,220 per family unit with two bedrooms, $37,800 per family unit with three bedrooms, and $41,494 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by not to exceed 50 per centum in any geographical area where he finds that cost levels so require;

(3) If executed by a mortgagor which is a public instrumentality or a private nonprofit corporation or association or other acceptable private nonprofit organization regulated or supervised under Federal or State laws or by political subdivisions of States, or agencies thereof, or by the Secretary under a regulatory agreement or otherwise, as to rents, charges, and methods of operation, in such form and in such manner as, in the opinion of the Secretary, will effectuate the purpose of this section, involve a principal obligation not in excess of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary): *Provided,* That in the case of properties other than new construction, the principal obligation shall not exceed the appraised value rather than the Secretary's estimate of the replacement cost;

(4) if executed by a mortgagor which is approved by the Secretary but is not a public instrumentality or a private nonprofit organization, involve a principal obligation not in excess (in the case of a property or project approved for mortgage insurance prior to the beginning of construction) of 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement costs may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage): *Provided,* That in the case of properties other than new construction the principal obligation shall not exceed 90 per centum of the Secretary's estimate of the value of the property or project: *And provided further,* That the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operating, and for such purpose the Secretary may make contracts with and acquire for not to exceed $100 such stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restrictions or regulations; such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance;

(5) provide for a complete amortization by periodic payments within such terms as the Secretary shall prescribe;

(6) bear interest (exclusive of premium charges for insurance) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum

not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market; and

(7) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation, with 50 per centum or more of the units therein specially designed for the use and occupancy of elderly persons in accordance with standards established by the Secretary, and which may include such commercial and special facilities as the Secretary deems adequate to serve the occupants.

(d) Release of part of mortgaged property or project from lien; preferences and priorities in rental of dwellings

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe, and shall prescribe such procedures as in his judgment are necessary to secure to elderly persons a preference or priority of opportunity to rent the dwellings included in such property or project.

(e) Applicability of other laws

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall refer to this section.

(f) Handicapped family units and facilities; rental preference or priority

Notwithstanding any of the provisions of this section, the housing provided under this section may include family units which are specially designed for the use and occupancy of any person or family qualifying as a handicapped family as defined in section 1701q of this title, and such special facilities as the Secretary deems adequate to serve handicapped families (as so defined). The Secretary may also prescribe procedures to secure to such families preference or priority of opportunity to rent the living units specially designed for their use and occupancy.

(June 27, 1934, ch. 847, title II, § 231, as added Sept. 23, 1959, Pub. L. 86-372, title II, § 201(a), 73 Stat. 665, and amended June 30, 1961, Pub. L. 87-70, title VI, § 612(m), 75 Stat. 183; Sept. 2, 1964, Pub. L. 88-560, title I, § 107(e), title II, § 203(c), 78 Stat. 776, 784; Aug. 10, 1965, Pub. L. 89-117, title II, § 207(e), title XI, § 1108(*l*), 79 Stat. 467, 505; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), 81 Stat. 17; May 7, 1968, Pub. L. 90-301, § 3(d), 82 Stat. 114; Dec. 24, 1969, Pub. L. 91-152, title I, § 113(g), 83 Stat. 384; Aug. 22, 1974, Pub. L. 93-383, title III, §§ 303(f), 304(f), 88 Stat. 677, 678; Dec. 23, 1975, Pub. L. 94-173, § 3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94-375, § 8(a), (b)(6), 90 Stat. 1071, 1072.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1976—Subsec. (c)(2). Pub. L. 94-375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "$18,450" for "$12,300", "$20,625" for "$17,188", "$24,630" for "$20,525", "$29,640" for "$24,700", "$34,846" for "$29,038", "$20,962" for "$13,975", "$24,030" for "$20,025", "$29,220" for "$24,350", "$37,800" for "$31,500", and "$41,494" for "$34,578".

1975—Subsec. (c)(2). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (c)(1). Pub. L. 93-383, § 304(f), struck out subsec. (c)(1) which set forth limits on principal obligations of mortgages.

Subsec. (c)(2). Pub. L. 93-383, § 303(f), substituted "$12,300" for "$8,800", "$13,975" for "$10,450", "$17,188" for "$12,375", "$20,025" for "$14,850", "$20,525" for "$14,850", "$24,350" for "$17,600", "$24,700" for "$18,700", "$29,038" for "$21,175", "$31,500" for "$22,000", and "$34,578" for "$25,025".

1969—Subsec. (c)(2). Pub. L. 91-152 substituted "$8,800" for "$8,000", "$10,450" for "$9,500", "$12,375" for "$11,250", "$14,850" for "$13,500" wherever appearing therein, "$17,600" for "$16,000", "$18,700" for "$17,000", "$21,175" for "$19,250", "$22,000" for "$20,000", and "$25,025" for "$22,750".

1968—Subsec. (c)(6). Pub. L. 90-301 increased the limitation on interest rates from 5½ to 6 per centum per annum.

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b), (c)(2) to (7), (d), and (f) of this section.

Subsec. (c). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's" in pars. (3) and (4).

1965—Subsec. (c)(2). Pub. L. 89-117, § 207(e), substituted "$17,000 per family unit with three bedrooms, and $19,250 per family unit with four or more bedrooms" for "and $17,000 per family unit with three or more bedrooms" and "$20,000 per family unit with three bedrooms, and $22,750 per family unit with four or more bedrooms" for "and $20,000 per family unit with three or more bedrooms".

Subsec. (c)(4). Pub. L. 89-117, § 1108(*l*)(1), substituted "General Insurance Fund" for "section 207 Housing Insurance Fund".

Subsec. (e). Pub. L. 89-117, § 1108(*l*)(2), struck out references to subsecs. (f), (m) and (p) of section 1713 of this title.

1964—Subsec. (c)(2). Pub. L. 88-560, § 107(e), changed limits on mortgages for property or project attributable to dwelling use from "$2,250 per room (or $9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "$8,000 per family unit without a bedroom, $11,250 per family unit with one bedroom, $13,500 per family unit with two bedrooms, and $17,000 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of $2,250 per room to not to exceed $2,750 per room, and the dollar amount limitation of $9,000 per family unit to not to exceed $9,400 per family unit" to dollar amount limitations "per family unit to not to exceed $9,500 per family unit without a bedroom, $13,500 per family unit with one bedroom, $16,000 per family unit with two bedrooms, and $20,000 per family unit with three or more bedrooms", and substituted provisions authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such increase "by not to exceed $1,250 per room, without regard to the number of rooms being less than four, or four or more".

Subsec. (f). Pub. L. 88-560, § 203(c), added subsec. (f).

1961—Subsec. (c)(2). Pub. L. 87-70 increased the maximum amount of mortgages from not more than $9,000 per dwelling unit for such part of such property or project as may be attributable to dwelling use to not more than $2,250 per room (or $9,000 per family unit if the number of rooms in such property or project is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), and permitted an increase of from $2,250 per room to not more than $2,750 per room to compensate for the

higher costs incident to the construction of elevator-type structures.

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendment to subsec. (c)(2) of this section by section 107(e) of Pub. L. 88-560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (c)(6) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701q, 1701s, 1709-1, 1715c, 1715n, 1715q, 1715r of this title.

§ 1715w. Mortgage insurance for nursing homes and intermediate care facilities

(a) Purpose.

The purpose of this section is to assist in the provision of facilities for either of the following purposes or for a combination of such purposes:

(1) The development of nursing homes for the care and treatment of convalescents and other persons who are not acutely ill and do not need hospital care but who require skilled nursing care and related medical services.

(2) The development of intermediate care facilities for the care of persons who, while not in need of nursing home care and treatment, nevertheless are unable to live fully independently and who are in need of minimum but continuous care provided by licensed or trained personnel.

(b) Definitions

For the purposes of this section—

(1) the term "nursing home" means a proprietary facility or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to provide such care or services in accordance with the laws of the State where the facility is located;

(2) the term "intermediate care facility" means a proprietary facility or facility of a private nonprofit corporation or association licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of persons who, because of incapacitating infirmities, require minimum but continuous care but are not in need of continuous medical or nursing services; and

(3) the term "mortgage" means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable, or (B) under a lease having a period of not less than fifty years to run from the date the mortgage was executed. The term "first mortgage" means such classes of first liens as are commonly given to secure advances (including but not limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty. The term "mortgagor" shall have the meaning set forth in section 1713(a) of this title.

(c) Authorization

The Secretary is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) Terms and conditions; limitation on maximum amount of mortgage; amortization; interest; certification from State agency

In order to carry out the purposes of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated nursing home, or intermediate care facility or combined nursing home and intermediate care facility, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated value of the property or project, including equipment to be used in the operation of the home or facility or combined home and facility, when the pro-

posed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe; and

(B) bear interest (exclusive of premium charges for insurance) at not to exceed 5 per centum per annum of the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

(4) The Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 291d(a)(1) of title 42 for the State in which is located the nursing home or intermediate care facility or combined nursing home and intermediate care facility covered by the mortgage, a certification that (A) there is a need for such home or facility or combined home and facility, and (B) there are in force in such State or in the municipality or other political subdivision of the State in which the proposed home or facility or combined home and facility is to be located reasonable minimum standards of licensure and methods of operation governing it. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any home or facility or combined home and facility located in the State for which mortgage insurance is provided under this section.

(e) Release of part of mortgaged property or project from lien

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(f) Applicability of other laws

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall refer to this section.

(g) Regulations covering intermediate care facilities; consultations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section relating to intermediate care facilities, after consulting with the Secretary of Health, Education, and Welfare with respect to any health or medical aspects of the program which may be involved in such regulations.

(h) Consultations concerning need for and availability of intermediate care facilities

The Secretary shall also consult with the Secretary of Health, Education, and Welfare as to the need for and the availability of intermediate care facilities in any area for which an intermediate care facility is proposed under this section.

(i) Fire safety equipment for nursing homes and intermediate care facilities

(1) The Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure and to insure loans made by financial institutions or other approved mortgagees to nursing homes and intermediate care facilities to provide for the purchase and installation of fire safety equipment necessary for compliance with the 1967 edition of the Life Safety Code of the National Fire Protection Association or other such codes or requirements approved by the Secretary of Health, Education, and Welfare as conditions of participation for providers of services under title XVIII and title XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.].

(2) To be eligible for insurance under this subsection a loan shall—

(A) not exceed the Secretary's estimate of the reasonable cost of the equipment fully installed;

(B) bear interest at not to exceed a rate determined by the Secretary to be necessary to meet the loan market;

(C) have a maturity satisfactory to the Secretary;

(D) be made by a financial institution or other mortgagee approved by the Secretary as eligible for insurance under section 1703 of this title or a mortgagee approved under section 1709(b)(1) of this title; and

(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe.

(3) The provisions of paragraphs (5), (6), (7), (9), and (10) of section 1715k(h) of this title shall be applicable to loans insured under this subsection, except that all references to "home improvement loans" shall be construed to refer to loans under this subsection.

(4) The provisions of subsections (c), (d), and (h) of section 1703 of this title shall apply to loans insured under this subsection, and for the purpose of this subsection references in such subsections to "this section" or "this title" shall be construed to refer to this subsection.

(June 27, 1934, ch. 847, title II, § 232, as added Sept. 23, 1959, Pub. L. 86-372, title I, § 115, 73 Stat. 663, and amended June 30, 1961, Pub. L. 87-70, title VI, § 610, 75 Stat. 180; Sept. 2, 1964, Pub. L. 88-560, title I, § 117, 78 Stat. 779; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(m), 79 Stat. 505; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title III, § 314, 82 Stat. 511; Dec. 24, 1969, Pub. L. 91-152, title I, § 111, 83 Stat. 382; Dec. 28, 1973, Pub. L. 93-204, 87 Stat. 883; Aug. 22, 1974, Pub. L. 93-383, title III, § 304(g), 88 Stat. 678.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Titles XVIII and XIX of the Social Security Act, referred to in subsec. (i)(1), are classified to subchapters XVIII and XIX (§§ 1395 et seq. and 1396 et seq., respectively) of chapter 7 of Title 42, The Public Health and Welfare.

AMENDMENTS

1974—Subsec. (d)(2). Pub. L. 93-383 struck out "not to exceed $12,500,000, and" following "an amount".

1973—Subsec. (i). Pub. L. 93-204 added subsec. (i).

1969—Subsec. (a). Pub. L. 91-152, § 111(1), added to the stated purpose of this section of developing nursing homes, the development of intermediate care facilities or the development of such facilities in combination with nursing home facilities.

Subsec. (b). Pub. L. 91-152, § 111(2), (3), struck out "and" following "is located;" in par. (4), redesignated par. (2) as (3), and added par. (2).

Subsec. (d). Pub. L. 91-152, § 111(4), added the provision authorizing the Secretary to insure any mortgage which covers an intermediate care facility or combined nursing home and intermediate care facility.

Subsec. (d)(2). Pub. L. 91-152, § 111(5), substituted "operation of the home or facility or combined home or facility" for "operation of the nursing home".

Subsec. (d)(4). Pub. L. 91-152, § 111(6), substituted "section 291d(a)(1) of Title 42" for "section 291b(a)(1) of Title 42", and made provisions applicable to the insurance of mortgages covering intermediate care facilities or combined nursing home and intermediate care facilities.

Subsecs. (g), (h). Pub. L. 91-152, § 111(7), added subsecs. (g) and (h).

1968—Subsec. (b)(2). Pub. L. 90-448, § 314(1), redefined the term "mortgage" to mean a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof under a lease for not less than ninety-nine years which is renewable, or under a lease having a period of not less than fifty years to run from the date the mortgage was executed, and inserted the definition of "first mortgage".

Subsec. (d). Pub. L. 90-448, § 314(2), (3), authorized the Secretary to insure a mortgage which includes equipment to be used in the operation of a nursing home, and permitted the value of the equipment to be included in the calculation of the 90 per centum of the estimated value.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1965—Subsec. (d)(1). Pub. L. 89-117, § 1108(m)(1), substituted "General Insurance Fund" for "section 207 Housing Insurance Fund".

Subsec. (f). Pub. L. 89-117, § 1108(m)(2), struck out references to subsecs. (f), (m) and (p) of section 1713 of this title.

1964—Subsec. (b)(1). Pub. L. 88-560 inserted "or facility of a private nonprofit corporation or association" following "proprietary facility".

1961—Subsec. (d)(2). Pub. L. 87-70 substituted "90 per centum" for "75 per centum".

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (d)(3)(B) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709-1, 1715c, 1715n of this title.

§ 1715x. Experimental housing insurance

(a) Purpose; authorization

(1) In order to assist in lowering housing costs and improving housing standards, quality, livability, or durability or neighborhood design through the utilization of advanced housing technology, or experimental property standards, the Secretary is authorized to insure and to make commitments to insure, under this section, mortgages (including home improvement loans, and including advances on mortgages during construction) secured by properties including dwellings involving the utilization and testing of advanced technology in housing design, materials, or construction, or experimental property standards for neighborhood design if the Secretary determines that (A) the property is an acceptable risk, giving consideration to the need for testing advanced housing technology or experimental property standards, (B) the utilization and testing of the advanced technology or experimental property standards involved will provide data or experience which the Secretary deems to be significant in reducing housing costs or improving housing standards, quality, livability, or durability, or improving neighborhood design, and (C) the mortgages are eligible for insurance under the provisions of this section and under any further terms and conditions which may be prescribed by the Secretary to establish the acceptability of the mortgages for insurance.

(2) The Secretary is further authorized to insure and to make commitments to insure, under this section, mortgages (including advances on mortgages during construction) secured by properties in projects to be carried out in accordance with plans approved by the Secretary under section 1701z of this title.

(b) Eligibility for insurance; conditions; limits

To be eligible for insurance under this section, a mortgage shall meet the requirements of one of the other sections or subchapters of this chapter; except that, in lieu of determining the appraised value or the replacement cost of the property in cases involving new construction or the estimated cost of repair and rehabilitation of improvement in cases involving existing properties, the Secretary shall estimate the cost of replacing the property using comparable conventional design, materials, and construction, and any limitation upon the maximum mortgage amount available to a nonoccupant owner shall not, in the discretion of the Secretary, be applicable to mortgages insured under this section.

(c) Contracts, agreements, and financial undertakings with mortgagor

The Secretary may enter into such contracts, agreements, and financial undertakings with the mortgagor and others as he deems necessary or desirable to carry out the purposes of this section, and may expend available funds for such purposes, including the correction (when he determines it necessary to protect the occupants), at any time subsequent to insurance of a mortgage, of defects or failures in the dwellings which the Secretary finds are caused by or related to the advanced housing technology utilized in their design or construction or experimental property standards. Any authority which the Secretary may exercise in connection with a mortgage, or property covered by a mortgage, insured under any other section of this subchapter (including payments to reduce rentals for, or to facilitate homeownership by, lower income families) may be exercised in connection with a mortgage, or property covered by a mortgage, meeting the requirements of such other section (except as specified in subsection (b) of this section), which is insured under this section to the same extent and in the same manner as if the mortgage insured under this section was insured under such other section.

(d) Investigations and analysis of data; publication and distribution of reports

The Secretary may make such investigations and analyses of data, and publish and distribute such reports, as he determines to be necessary or desirable to assure the most beneficial use of the data and information to be acquired as a result of this section.

(e) Entitlement to insurance benefits

Any mortgagee or lender under a mortgage insured under subsection (b) of this section shall be entitled to insurance benefits determined in the same manner as such benefits would be determined if such mortgage or loan were insured under the section or subchapter of this chapter for which it otherwise would have been eligible except for the experimental feature of the property involved.

(f) Defaults; payment in cash or debentures; acquisition of mortgage

Notwithstanding the provisions of subsection (e) of this section, in the case of default on any mortgage insured under this section, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such subsections in cash or in debentures (as provided in the mortgage insurance contract), or may acquire the mortgage loan and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary made previously by the mortgagee under the provisions of the mortgage. After the acquisition of the mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the mortgage. The appropriate provisions of sections 1710 and 1713 of this title relating to the issuance of debentures shall apply with respect to debentures issued under this subsection, and the appropriate provisions of sections 1710 and 1713 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this subsection, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages insured under this section (1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to this section. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(June 27, 1934, ch. 847, title II, § 233, as added June 30, 1961, Pub. L. 87-70, title I, § 103, 75 Stat. 158, and amended Sept. 2, 1964, Pub. L. 88-560, title I, §§ 105(c)(1), 118, 78 Stat. 772, 779, 780; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(n), 79 Stat. 505; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title I, § 108(f), title III, § 309, 82 Stat. 496, 509.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-448, § 108(f)(1), designated existing provision as par. (1), redesignated therein clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively, and added par. (2).

Subsec. (b). Pub. L. 90-448, § 309(1), substituted "one of the other sections or subchapters of this chapter" for "one of the other sections of this subchapter".

Subsec. (c). Pub. L. 90-448, § 108(f)(2), inserted sentence providing that any authority which the Secretary may exercise in connection with a mortgage, or property covered by a mortgage, insured under any other section of this subchapter (including payments to reduce rentals for, or to facilitate homeownership by, lower income families) may be exercised in connection with a mortgage, or property covered by a mortgage, meeting the requirements of such other section (except as specified in subsec. (b)), which is insured under this section to the same extent and in the same manner as if the mortgage insured under this section was insured under such other section.

Subsec. (e). Pub. L. 90-448, § 309(2), substituted "the section or subchapter of this chapter" for "the section of this subchapter".

1967—Pub. L. 90-19 substituted "Secretary," for "Commissioner" wherever appearing in subsecs. (a) to (d) and (f) of this section.

1965—Subsec. (f). Pub. L. 89-117, § 1108(n)(1), (2), substituted "General Insurance Fund" for "Experimental Housing Insurance Fund" and struck out provision that all references in section 1713 of this title to the Housing Insurance Fund, the Housing Fund, or the Fund shall be construed to refer to the Experimental Housing Insurance Fund.

Subsec. (g). Pub. L. 89-117, § 1108(n)(3), repealed subsec. (g), which created the Experimental Housing Insurance Fund, provided for transfer of funds thereto, and authorized the charging of expenses thereto.

1964—Subsec. (a). Pub. L. 88-560, § 118(a), substituted "home improvement loans, and including advances on mortgages" for ", in the case of mortgages insured under subsection (b)(2) of this section, advances on such mortgages".

Subsec. (b). Pub. L. 88-560, § 118(b), substituted provisions which make insurance available for mortgages meeting the requirements of any other sections of subchapter II of this chapter for provisions which made insurance available for mortgages meeting the requirements of section 1709(b) or 1713(b), (c) of this title and made the Commissioner's estimate of replacement cost of the property applicable to mortgages meeting the requirements of any section of subchapter II of this chapter in lieu of determining the appraised value or the replacement cost of the property in new construction or estimated cost of repair and rehabilitation or improvement for existing properties.

Subsec. (e). Pub. L. 88-560, § 118(c), substituted provision for entitlement to insurance benefits determined in the same manner as such benefits would be determined if such mortgage or loan were insured under the section of this subchapter for which it otherwise would have been eligible except for the experimental feature of the property involved for former provision for entitlement to insurance benefits provided in section 1710(a) of this title.

Subsec. (f). Pub. L. 88-560, §§ 105(c)(1), 118(c), (d), added to subsec. (g), redesignated (f), the provision that "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant

to regulations issued by the Commissioner", deleted former provisions of subsec. (f) which related to entitlement to insurance benefits provided in section 1713(g) of this title, now covered by subsec. (e) of this section, and redesignated former subsec. (g) as (f), substituting in the first sentence "subsection (e)" for "subsections (e) and (f)", respectively.

Subsec. (g). Pub. L. 88-560, § 118(d), redesignated former subsec. (h) as (g). Former subsec. (g) redesignated (f).

Subsec. (h). Pub. L. 88-560, § 118(d), redesignated former subsec. (h) as (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701z, 1713, 1715c, 1715o, 1715q, 1715r, 1715z-3, 1735c of this title.

§ 1715y. Mortgage insurance for condominiums

(a) Purpose

The purpose of this section is to provide an additional means of increasing the supply of privately owned dwelling units where, under the laws of the State in which the property is located, real property title and ownership are established with respect to a one-family unit which is part of a multifamily project.

(b) Definitions

The terms "mortgage", "mortgagee", "mortgagor", "maturity date", and "State" shall have the meanings respectively set forth in section 1707 of this title, except that the term "mortgage" for the purposes of subsection (c) this section may include a first mortgage given to secure the unpaid purchase price of a fee interest in, or a long-term leasehold interest in, a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project where the mortgage is determined by the Secretary to be eligible for insurance under this section. The term "common areas and facilities" as used in this section shall be deemed to include the land and such commercial, community, and other facilities as are approved by the Secretary.

(c) Authorization; eligibility for insurance; conditions; limits

The Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe (including the minimum number of family units in the project which shall be offered for sale and provisions for the protection of the consumer and the public interest), to insure any mortgage covering a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project, if (1) the mortgage meets the requirements of this subsection and of section 1709(b) of this title, except as that section is modified by this subsection, (2) the project is or has been covered by a mortgage insured under any section (except section 1715e(a)(1) and (2) of this title) of this chapter, notwithstanding any requirements in any such section that the project be constructed or rehabilitated for the purpose of providing rental housing: *Provided*, That a one-family unit in a multifamily project involving eleven or less units shall be eligible for insurance without having been covered by a project mortgage, and (3) the mortgagor is acquiring, or has acquired, a family unit covered by a mortgage insured under this subsection for his own use and occupancy and will not own more than four one-family units covered by mortgages insured under this subsection. Any project proposed to be constructed or rehabilitated after June 30, 1961, with the assistance of mortgage insurance under this chapter, where the sale of family units is to be assisted with mortgage insurance under this subsection, shall be subject to such requirements as the Secretary may prescribe. To be eligible for insurance pursuant to this subsection, a mortgage shall (A) involve a principal obligation in an amount not to exceed $45,000, and not to exceed the sum of (i) 97 per centum of $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, (ii) 90 per centum of such value in excess of $25,000 but not in excess of $35,000, (iii) 80 per centum of such value in excess of $35,000 and (B) have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years from the date of the beginning of amortization of the mortgage or three-fourths of the Secretary's estimate of the remaining economic life of the project, whichever is the lesser. In determining the amount of a mortgage in the case of a nonoccupant mortgagor the reference to paragraph (2) of section 1709(b) of this title in section 1709(b)(8) of this title shall be construed to refer to the preceding sentence in this subsection. The mortgage shall contain such provisions as the Secretary determines to be necessary for the maintenance of common areas and facilities and the multifamily project. The mortgagor shall have exclusive right to the use of the one-family unit covered by the mortgage and, together with the owners of other units in the multifamily project, shall have the right to the use of the common areas and facilities serving the project and the obligation of maintaining all such common areas and facilities. The Secretary may require that the rights and obligations of the mortgagor and the owners of other dwelling units in the project shall be subject to such controls as he determines to be necessary and feasible to promote and protect individual owners, the multifamily project, and its occupants. For the purposes of this subsection, the Secretary is authorized in his discretion and under such terms and conditions as he may prescribe to permit one-family units and interests in common areas and facilities in multifamily projects covered by mortgages insured under any section of this chapter (other than section 1715e(a)(1) and (2) of this title) to be released from the liens of those mortgages.

(d) Blanket mortgages of multifamily projects; plan of family unit ownership; regulations; stock purchase and redemption

In addition to individual mortgages insured under subsection (c) of this section, the Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe, to insure blanket mortgages (including advances on such mortgages during construction) which cover multifamily projects to be constructed or rehabilitated in cases where the mortgage is held by a mortgagor, approved by the Secretary, which—

(1) has certified to the Secretary, as a condition of obtaining the insurance of a blanket mortgage under this subsection, that upon completion of the multifamily project covered

by such mortgage it intends to commit the ownership of the multifamily project to a plan of family unit ownership under which each family unit would be eligible for individual mortgage insurance under subsection (c) of this section and will faithfully and diligently make and carry out all reasonable efforts to establish such plan of family unit ownership and to sell such family units to purchasers approved by the Secretary; and

(2) shall be regulated or restricted by the Secretary as to rents, charges, capital structure, rate of return, and methods of operation until the termination of all obligations of the Secretary under the insurance and during such further period of time as the Secretary shall be the owner, holder or reinsurer of the mortgage. The Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary to render effective the regulation and restriction of such mortgagor. The stock or interest acquired by the Secretary shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par at any time upon the request of the Secretary after the termination of all obligations of the Secretary under the insurance.

(e) Eligibility for insurance of blanket mortgages of multifamily projects

To be eligible for insurance, a blanket mortgage on any multifamily project of a mortgagor of the character described in subsection (d) of this section shall involve a principal obligation in an amount—

(1) Repealed. Pub. L. 93-383, title III, § 304(h), Aug. 22, 1974, 88 Stat. 678.

(2) not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the project when the proposed physical improvements are completed;

(3) not to exceed, for such part of the project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $19,500 per family unit without a bedroom, $21,600 per family unit with one bedroom, $25,800 per family unit with two bedrooms, $31,800 per family unit with three bedrooms, and $36,000 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed $22,500 per family unit without a bedroom, $25,200 per family unit with one bedroom, $30,900 per family unit with two bedrooms, $38,700 per family unit with three bedrooms, and $43,758 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by not to exceed 50 per centum in any geographical area where he finds that cost levels so require; and

(4) not to exceed an amount equal to the sum of the unit mortgage amounts determined under the provisions of subsection (c) of this section assuming the mortgagor to be the owner and occupant of each family unit.

(f) Amortization of blanket mortgages of multifamily projects; interest; releases; extent of project

Any blanket mortgage insured under subsection (d) of this section shall provide for complete amortization by periodic payments within such term as the Secretary may prescribe but not to exceed forty years from the beginning of amortization of the mortgage, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 5¼ per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the blanket mortgage upon such terms and conditions as he may prescribe and the blanket mortgage may provide for such release. The project covered by the blanket mortgage may include four or more family units and such commercial and community facilities as the Secretary deems adequate to serve the occupants.

(g) Entitlement to insurance benefits as provided in section 1710(a) of this title

Any mortgagee under a mortgage insured under subsection (c) of this section is entitled to receive the benefits of the insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall be applicable to the mortgages insured under subsection (c) of this section, except that (1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, (2) all references therein to section 1709 of this title shall be construed to refer to subsection (c) of this section, and (3) the excess remaining, referred to in section 1710(f)(1) of this title, shall be retained by the Secretary and credited to the General Insurance Fund.

(h) Applicability of other provisions

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall be applicable to mortgages insured under subsection (d) of this section.

(i) Applicability of other provisions

The provisions of sections 1715p and 1715u of this title shall be applicable to the mortgages insured under subsection (c) of this section.

(June 27, 1934, ch. 847, title II, § 234, as added June 30, 1961, Pub. L. 87-70, title I, § 104, 75 Stat. 160, and amended Sept. 2, 1964, Pub. L. 88-560, title I, § 119(a), 78 Stat. 780-782; Aug. 10, 1965, Pub. L. 89-117, title II, § 207(f), title XI, § 1108(o), 79 Stat. 468, 506; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), 81 Stat. 17; May 7, 1968, Pub. L. 90-301, § 3(e), 82 Stat. 114; Aug. 1, 1968, Pub. L. 90-448, title III, § 303, 82 Stat. 507; Dec. 24, 1969, Pub. L. 91-152, title I, §§ 102(d), 113(h), 83 Stat. 380, 384; Aug. 22, 1974 Pub. L. 93-383, title III, §§ 302(e), 303(g), 304(h), 310(d), 88 Stat. 676-678, 683; Dec. 23, 1975, Pub. L. 94-

173, § 3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94-375, § 8(a), (b)(7), 90 Stat. 1071, 1072.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1976—Subsec. (e) (3). Pub. L. 94-375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "$19,500" for "$13,000", "$21,600" for "$18,000", "$25,800" for "$21,500", "$31,800" for "$26,500", "$36,000" for "$30,000", "$22,500" for "$15,000", "$25,200" for "$21,000", "$30,900" for "$25,750", "$38,700" for "$32,250", and "$43,758" for "$36,465".

1975—Subsec. (e)(3). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (c). Pub. L. 93-383, §§ 302(e), 310(d), substituted "$45,000" for "$33,000" in cl. (A), "$25,000" for "$15,000" in cl. (A)(i), "$25,000" for "$15,000" and "$35,000" for "$25,000" in cl. (A)(ii), and "$35,000" for "$25,000" and "80" for "75" in cl. (A)(iii).

Subsec. (e)(1). Pub. L. 93-383, § 304(h), struck out subsec. (e)(1) which set forth limitations on principal obligations of mortgages.

Subsec. (e)(3). Pub. L. 93-383, § 303(g), substituted "$13,000" for "$9,900", "$15,000" for "$11,550", "$18,000" for "$13,750", "$21,000" for "$16,500", "$21,500" for "$16,500", "$25,750" for "$19,800, "$26,500" for "$20,350", "$30,000" for "$23,100", "$32,250" for "$25,750", and "$36,465" for "$28,050".

1969—Subsec. (c). Pub. L. 91-152, §§ 102(d), 113(h)(1), substituted "$25,000" for "$20,000" wherever appearing therein, and "$33,000" for "$30,000".

Subsec. (e)(3). Pub. L. 91-152, § 113(h)(2), (3), substituted "$9,900" for "$9,000", "$11,550" for "$10,500", "$13,750" for "$12,500", "$16,500" for "$15,000" wherever appearing therein, "$19,800" for "$18,000", "$20,350" for "$18,500", "$23,100" for "$21,000", "$24,750" for "$22,500", and "$28,050" for "$25,500".

1968—Subsec. (c). Pub. L. 90-448, § 303(a), (b), made one-family units in multifamily projects involving eleven or less units eligible for insurance without having been covered by a project mortgage, and increased the maximum mortgage limits from 75 to 80 per centum of the appraised value of the property in excess of $20,000.

Subsec. (f). Pub. L. 90-448, § 303(c), permitted blanket mortgages to cover four or more family units instead of five or more family units.

Pub. L. 90-301 limited the interest rate on mortgages to such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b) to (d), (d) (1), (2), (e)(2), (3), (f), and (g) of this section.

Subsec. (c). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's".

1965—Subsec. (d)(2). Pub. L. 89-117, § 1108(o)(1), substituted "General Insurance Fund" for "Apartment Unit Insurance Fund".

Subsec. (e)(3). Pub. L. 89-117, § 207(f), substituted "$18,500 per family unit with three bedrooms, and $21,000 per family unit with four or more bedrooms" for "and $18,500 per family unit with three or more bedrooms" and "22,500 per family unit with three bedrooms, and $25,500 per family unit with four or more bedrooms" for "and $22,500 per family unit with three or more bedrooms".

Subsec. (g). Pub. L. 89-117, § 1108(o)(1), (2), substituted "General Insurance Fund" for "Apartment Unit Insurance Fund".

Subsec. (h). Pub. L. 89-117, § 1108(o)(2), struck out reference to subsec. (m) and (p) of section 1713 of this title and provision that references therein to the Housing Insurance Fund or Housing Fund shall be construed to refer to the Apartment Unit Insurance Fund.

Subsec. (i). Pub. L. 89-117, § 1108(o)(3), redesignated former subsec. (j) as subsec. (i) and repealed former subsec. (i), which created the Apartment Unit Insurance Fund, authorized transfer of funds thereto, and provided for the charging of expenses thereto.

Subsec. (j). Pub. L. 89-117, § 1108(o)(3), redesignated former subsec. (j) as subsec. (i). Former subsec. (i) was repealed.

1964—Pub. L. 88-560, § 119(a)(1), substituted in the section catchline "Mortgage insurance for condominiums" for "Mortgage insurance for individually owned units in multifamily structures".

Subsec. (a). Pub. L. 88-560, § 119(a)(2), substituted "project" for "structure".

Subsec. (b). Pub. L. 88-560, § 119(a)(2), (3), substituted "project" for "structure" in two instances and "the term 'mortgage' for the purposes of subsection (c) of this section" for "the term 'mortgage' for the purposes of this section", respectively.

Subsec. (c). Pub. L. 88-560, § 119(a)(2), (4) to (6), amended the provisions as follows.

Section 119(a)(2) substituted "project" for "structure", wherever appearing, and "projects" for "structures" in the last sentence;

Section 119(a)(4) substituted "this subsection" for "this section", wherever appearing, and "under any section" for "under another section" in the first sentence;

Section 119(a)(5) substituted "section 1715e(a)(1) and (2)" for "section 1715e", in two instances; and

Section 119(a)(6) substituted in the third sentence: in clause (A), "amount not to exceed $30,000" for "amount not to exceed the limits per room and per family dwelling unit provided by section 1713(c)(3) of this title"; in clause (A)(i), "$15,000" for "$13,500"; in clause (A)(ii), "$15,000" and "$20,000" for "$13,500" and "$18,000", respectively; in clause (A)(iii), "75 per centum" and "$20,000" for "70 per centum" and "$18,000", respectively; and in clause (B), "thirty-five" for "thirty" years.

Subsecs. (d) to (f). Pub. L. 88-560, § 119(a)(7), added subsecs. (d) to (f). Former subsecs. (d) to (f) renumbered subsecs. (g), (i), (j).

Subsec. (g). Pub. L. 88-560, § 119(a)(7), (8), redesignated former subsec. (d) as (g) and substituted "subsection (c) of this section" for "this section" in three instances, respectively.

Subsec. (h). Pub. L. 88-560, § 119(a)(9), added subsec. (h).

Subsec. (i). Pub. L. 88-560, § 119(a)(7), redesignated former subsec. (e) as (i).

Subsec. (j). Pub. L. 88-560, § 119(a)(7), (10), redesignated former subsec. (f) as (j), and eliminated reference to section 1715t of this title and substituted "subsection (c) of this section" for "this section", respectively.

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (f) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709-1, 1715c, 1715q, 1715r, 1715z, 1723e of this title.

§ 1715z. Homeownership or membership in cooperative association for lower income families

(a) Authorization for periodic assistance payments to mortgagees; assistance to mobile home buyers

(1) For the purpose of assisting lower income families in acquiring homeownership or in acquiring membership in a cooperative association operating a housing project, the Secretary is authorized to make, and to contract to

make, periodic assistance payments on behalf of such homeowners and cooperative members. The assistance shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section or which mortgages are assisted under a State or local program providing assistance through loans, loan insurance or tax abatement.

(2)(A) Notwithstanding any other provision of this section, the Secretary is authorized to make periodic assistance payments under this section on behalf of families whose incomes do not exceed the maximum income limits prescribed pursuant to subsection (h)(2) of this section for the purpose of assisting such families in acquiring ownership of a mobile home consisting of two or more modules and a lot on which such mobile home is or will be situated, except that periodic assistance payments pursuant to this paragraph shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this section after January 1, 1976. Assistance payments under this section pursuant to this paragraph shall be accomplished through payments on behalf of an owner of lower-income of a mobile home as described in the preceding sentence to the financial institution which makes the loan, advance of credit, or purchase of an obligation representing the loan or advance of credit to finance the purchase of the mobile home and the lot on which such mobile home is or will be situated, but only if insurance under section 1703 of this title covering such loan, advance of credit, or obligation has been granted to such institution.

(B) Notwithstanding the provisions of subsection (c) of this section, assistance payments provided pursuant to this paragraph shall be in an amount not exceeding the lesser of—

(i) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 1703 of this title due under the loan or advance of credit remaining unpaid after applying 20 per centum of the mobile homeowner's income; or

(ii) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 1703 of this title which the mobile homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate derived by subtracting from the interest rate applicable to such loan or advance of credit the interest rate differential between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under subsection (i) of this section at the time such loan or advance of credit is made and the interest rate which such mortgages are presumed, under regulations prescribed by the Secretary, to bear for purposes of subsection (c)(2) of this section.

(b) Qualifications and eligibility requirements for assistance payments

To qualify for assistance payments, the homeowner or the cooperative member shall be of lower income and satisfy eligibility requirements prescribed by the Secretary, and—

(1) the homeowner shall be a mortgagor under a mortgage which meets the requirements of and is insured under subsection (i) or (j)(4) of this section: *Provided,* That a mortgage meeting the requirements of subsection (i)(3)(A) of this section but insured under section 1715z-2 of this title may qualify for assistance payments if such mortgage was executed by a mortgagor who is determined not to be an acceptable credit risk for mortgage insurance purposes (but otherwise eligible) under subsection (j)(4) of this section or under section 1715*l*(d)(2) or 1715y(c) of this title and accepted as a reasonably satisfactory credit risk under section 1715z-2 of this title; or

(2) the cooperative association of which the family is a member shall operate (A) a housing project the construction or substantial rehabilitation of which has been financed with a mortgage insured under section 1715e of this title and which has been completed within two years prior to the filing of the application for assistance payments and the dwelling unit has had no previous occupant other than the family: *Provided,* That if any cooperative member who has received assistance payments transfers his membership and occupancy rights to another person who satisfies the eligibility requirements prescribed by the Secretary and undertakes the obligation to pay occupancy charges, the new cooperative member may qualify for assistance payments upon the filing of an application with respect to the dwelling unit involved to be occupied by him: *Provided further,* That assistance payments may be made with respect to a dwelling unit in an existing cooperative project which meets such standards as the Secretary may prescribe, if the family qualifies as a displaced family as defined in section 1715*l*(f) of this title, or a family which includes five or more minor persons, or a family occupying low-rent public housing: *Provided further,* That the amount of the mortgage attributable to the dwelling unit shall involve a principal obligation not in excess of $25,000 ($29,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that costs levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $29,000 and $33,000, respectively; or (B) a housing project which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

(c) Limitation on payments on behalf of mortgagor; occupancy of property; maximum amount of payment

The assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made during such time as the mortgagor shall continue to occupy the property which secures the mortgage: *Provided,* That assistance payments may be made on behalf of a homeowner who assumes a mortgage insured under subsec-

tion (i) or (j)(4) of this section with respect to which assistance payments have been made on behalf of the previous owner, if the homeowner is approved by the Secretary as eligible for receiving such assistance: *Provided further,* That the Secretary is authorized to continue making such assistance payments where the mortgage has been assigned to the Secretary. The payment shall be in an amount not exceeding the lesser of—

(1) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

(2) the difference between the amount of the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(d) Limitation on payments on behalf of family holding membership in cooperative association; occupancy; maximum amount of payment

Assistance payments to a mortgagee by the Secretary on behalf of a family holding membership in a cooperative association operating a housing project shall be made only during such time as the family is an occupant of such project and shall be in amounts computed on the basis of the formula set forth in subsection (c) of this section applying the cooperative member's proportionate share of the obligations under the project mortgage to the items specified in the formula.

(e) Reimbursement for expenses in handling the mortgage

The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (a)(2)(B), (c), (d), or (j)(7) of this section, as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(f) Adoption of procedures for recertifications of mortgagor's or cooperative member's income

Procedures shall be adopted by the Secretary for recertifications of the mortgagor's (or cooperative member's) income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in subsection (c) of this section.

(g) Regulations to assure that sales price or other consideration paid is not increased above appraised value

The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

(h) Authorization of appropriations; aggregate amount of assistance payment contracts; maximum income limits of families; limitation on payments with respect to existing dwellings or dwelling units in existing projects and for approved substantial rehabilitation of dwellings or dwelling units in projects

(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make the assistance payments under contracts entered into under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971, and by such sums as may be approved in appropriation Acts after June 30, 1974, and prior to July 1, 1976. Upon the expiration of one year following August 22, 1974, the Secretary shall not enter into new contracts for assistance payments under this section utilizing authority approved in appropriation Acts prior to July 1, 1974.

(2) Assistance payments under this section may be made only with respect to a family whose income at the time of initial occupancy does not exceed 95 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 95 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other factors.

(3) Notwithstanding the provisions of subsections (b)(2) and (i)(3)(A) of this section with respect to the prior construction or rehabilitation of a dwelling, or of the project in which there is a dwelling unit, for which assistance payments may be made, and notwithstanding the provisions of subsection (j)(1) of this section authorizing the purchase of housing which is neither deteriorating nor substandard, not more than—

(A) 25 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made prior to July 1, 1969, and

(B) 30 per centum of the total additional amount of contracts for assistance payments authorized by appropriation Acts to be made on or after July 1, 1969,

may be made with respect to existing dwellings, or dwelling units in existing projects.

(4) At least 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1971, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to substantial rehabilitation.

(i) Insurance of mortgages executed by mortgagors meeting eligibility requirements for assistance payments; issuance of commitment; eligibility requirements for insurance

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances with respect to property construction or rehabilitation pursuant to a self-help program) executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b) of this section. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 1715*l*(d)(2) or 1715y(c) of this title, except as such requirements are modified by this subsection.

(3) A mortgage to be insured under this subsection shall—

(A) involve a single-family dwelling which has been approved by the Secretary prior to the beginning of construction or substantial rehabilitation, or a two-family dwelling one of the units of which is to be occupied by the owner and which is approved by the Secretary prior to the beginning of substantial rehabilitation, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multi-family project, the construction or substantial rehabilitation of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit has had no previous occupant other than the mortgagor: *Provided,* That the mortgage may involve an existing dwelling or a family unit in an existing condominium project which meets such standards as the Secretary may prescribe, if the mortgagor qualifies as a displaced family as defined in section 1715*l*(f) of this title, or a family which includes five or more minor persons, or a family occupying low-rent public housing: *Provided further,* That the mortgage may involve an existing dwelling or a family unit in an existing condominium project if assistance payments have been made on behalf of the previous owner of the dwelling or family unit with respect to a mortgage insured under subsection (j)(4) of this section: *Provided further,* That the mortgage may involve a dwelling unit in an existing project covered by a mortgage insured under section 1715z–1 of this title or in an existing project receiving the benefits of financial assistance under section 1701s of this title;

(B) where it is to cover a one-family unit in a condominium project, have a principal obligation not exceeding $25,000 ($29,000 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $29,000 and $33,000, respectively; and

(C) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition.

(j) Insurance of mortgages executed by nonprofit organizations or public bodies or agencies; issuance of commitment; eligibility requirements for insurance; insurance of mortgages executed to finance sale of individual dwellings to lower income individuals or families; definitions; assistance payments to mortgagees on behalf of nonprofit organizations or public bodies and agencies

(1) In addition to mortgages insured under the provisions of subsection (i) of this section, the Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization or public body or agency to finance the purchase of housing, and the rehabilitation of such housing if it is deteriorating or substandard, for subsequent resale to lower income home purchasers who meet the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b) of this section. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit organization or public body or agency, approved by the Secretary, for the purpose of financing the purchase (with the intention of subsequent resale), and rehabilitation where the housing involved is deteriorating or substandard, of property comprising one or more tracts or parcels, whether or not contiguous, consisting of (i) four or more single-family dwellings of detached, semidetached, or row construction, or (ii) four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established; except that in a case not involving the rehabilitation of deteriorating or substandard housing the property purchased may consist of one or more such dwellings or units;

(B) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of any rehabilitation;

(C) bear interest (exclusive of premium charges for insurance and service charge, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market;

(D) provide for complete amortization (subject to paragraph (4)(E)) by periodic payments within such term as the Secretary may prescribe; and

(E) provide for the release of individual single-family dwellings from the lien of the mortgage upon their sale in accordance with paragraph (4).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property involved is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the purchase or rehabilitation of such property plus the mortgagor's related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4)(A) No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement, satisfactory to the Secretary, that it will offer to sell the dwellings involved, after purchase and upon completion of any rehabilitation, to lower income individuals or families meeting the eligibility requirements established by the Secretary under subsection (b) of this section.

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to lower income purchasers as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount not in excess of that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the individual dwelling involved;

(ii) bear interest at the same rate as the blanket mortgage; and

(iii) provide for complete amortization by periodic payments within a term equal to the remaining term (determined without regard to subparagraph (E)) of such blanket mortgage.

(C) The price for which any individual dwelling is sold under this paragraph shall be in an amount equal to that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the dwelling plus such additional amount, not less than $200 (which may be applied in whole or in part toward closing costs and may be paid in cash or its equivalent), as the Secretary may determine to be reasonable.

(D) Upon the sale under this paragraph of any individual dwelling, such dwelling shall be released from the lien of the blanket mortgage. Until all of the individual dwellings in the property covered by the blanket mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time, in such manner and under such terms as the Secretary may prescribe, as though they constituted rental units.

(E) Upon the sale under this paragraph of all the individual dwellings in the property covered by the blanket mortgage and the release of all individual dwellings from the lien of the blanket mortgage, the insurance of the blanket mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(5) Where the Secretary has approved a plan of family unit ownership the terms "single-family dwelling", "single-family dwellings", "individual dwelling", and "individual dwellings" shall mean a family unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(6) For purposes of this subsection, the terms "single-family dwelling" and "single-family dwellings" (except for purposes of paragraph (5)) shall include a two-family dwelling which has been approved by the Secretary if one of the units is to be occupied by the owner.

(7) In addition to the assistance payments authorized under subsection (b) of this section, the Secretary may make such payments to a mortgagee on behalf of a nonprofit organization or public body or agency which is a mortgagor under the provisions of paragraph (1) in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(8) A mortgage covering property which is not deteriorating or substandard may be insured under this subsection only if it is situated in an area in which mortgages may be insured under section 1715*l*(h) of this title.

(k) Allocation and transfer of reasonable portion of total authority to contract to make assistance payments to Secretary of Agriculture for use in rural areas and small towns

The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make assistance payments as approved in appropriation Acts under subsection (h)(1) of this section.

(*l*) Deductions for minors in determining income limits; exclusion of earnings of minors

In determining the income of any person for the purposes of this section, there shall be deducted an amount equal to $300 for each minor person who is a member of the immediate family of such person and living with such family, and the earnings of any such minor person shall not be included in the income of such person or his family.

(m) Termination date for insurance of mortgages

No mortgage shall be insured under this section after September 30, 1977, except pursuant to a commitment to insure before that date.

(June 27, 1934, ch. 847, title II, § 235, as added Aug. 1, 1968, Pub. L. 90-448, title I, § 101(a), 82 Stat. 477, and amended Dec. 24, 1969, Pub. L. 91-152, title I, §§ 101(d), 106, 107(a), 109, 113(i), title IV, §§ 412(b), 418(a), 83 Stat. 379, 381, 385, 398, 402; Dec. 31, 1970, Pub. L. 91-609, title I, §§ 101(d), 102(a), 105-107, 84 Stat. 1770, 1771; Oct. 18, 1972, Pub. L. 92-503, § 1(d), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93-85, § 1(d), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93-117, § 1(d), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93-383, title II, § 211, 88 Stat. 671; Aug. 3, 1976, Pub. L. 94-375, § 3(a)-(c), (e), (f), 90 Stat. 1068, 1069.)

AMENDMENTS

1976—Subsec. (a)(1). Pub. L. 94-375, § 3(f)(1)(A), designated existing provisions as subsec. (a)(1).

Subsec. (a)(2). Pub. L. 94-375, § 3(f)(1)(B), added subsec. (a)(2).

Subsec. (b)(2). Pub. L. 94-375, § 3(b), substituted "$25,000" for "$21,600", "$29,000" for "$25,200" in two places, and "$33,000" for "$28,800".

Subsec. (e). Pub. L. 94-375, § 3(f)(2), inserted "(a)(2)(B)," following "computed under subsection".

Subsec. (h)(2). Pub. L. 94-375, § 3(e), substituted "95 per centum" for "80 per centum" wherever appearing.

Subsec. (i)(3)(B). Pub. L. 94-375, § 3(c), substituted "$25,000" for "$21,600", "$29,000" for "$25,200" in two places, and "$33,000" for "$28,800".

Subsec. (m). Pub.L. 94-375 § 3(a), substituted "September 30, 1977" for "June 30, 1976".

1974—Subsec. (a). Pub. L. 93-383, § 211(b), added provisions relating to mortgages assisted under a State or local program providing assistance through loans, etc.

Subsec. (b)(2). Pub. L. 93-383, § 211(c)(1), substituted "$21,600" for "$18,000", "$25,200" for "$21,000" in two places, and "$28,800" for "$24,000".

Subsec. (h)(1). Pub. L. 93-383, § 211(a)(1), (2), added provisions relating to increases by such sums as may be approved in appropriations Acts after June 30, 1974, and prior to July 1, 1976, and provisions prohibiting new contracts for assistance payments upon the expiration of one year following Aug. 22, 1974.

Subsec. (h)(2). Pub. L. 93-383, § 211(a)(3), substituted provisions setting forth requirements for assistance payments for families for provisions setting forth maximum income limits of families receiving assistance payments under contracts and provisions relating to annual report to Congressional Committees with respect to income levels of families.

Subsec. (h)(3)(B). Pub. L. 93-383, § 211(a)(4), substituted "on or after July 1, 1969" for "prior to July 1, 1972".

Subsec. (i)(1). Pub. L. 93-383, § 211(a)(5), added provisions authorizing insurance of advances for property construction or rehabilitation pursuant to self-help programs.

Subsec. (i)(3)(B). Pub. L. 93-383, § 211(c)(2), substituted "$21,600" for "$18,000", "$25,200" for "$21,000" in two places, and "$28,800" for "$24,000".

Subsec. (i)(3)(C). Pub. L. 93-383, § 211(a)(6), struck out provisions relating to execution by a mortgagor in the case of a family whose income is not in excess of 135 per centum of the maximum income limits established in the area pursuant to specified limitations or any other family.

Subsec. (m). Pub. L. 93-383, § 211(a)(7), substituted "June 30, 1976" for "October 1, 1974".

1973—Subsec. (m). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Subsec. (m). Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Subsec. (b)(2). Pub. L. 91-609, § 107, designated existing provisions as cl. (A) and added cl. (B).

Subsec. (h)(1). Pub. L. 91-609, § 102(a), in second sentence, inserted "outstanding" before "contracts" where first appearing and substituted "$150,000,000 on July 1, 1970" and "$200,000,000 on July 1, 1971" for "$125,000,000 on July 1, 1970" and "$170,000,000 on July 1, 1971".

Subsec. (h)(3)(B). Pub. L. 91-609, § 105(1), substituted "July 1, 1972" for "July 1, 1971".

Subsec. (h)(4). Pub. L. 91-609, § 105(2), added par. (4).

Subsec. (i)(3)(A). Pub. L. 91-609, § 106, substituted "and which is approved by the Secretary" for "if the dwelling is purchased with the assistance of a nonprofit organization and is approved by the Secretary".

Subsec. (m). Pub. L. 91-609, § 101(d), substituted "October 1, 1972" for "October 1, 1971".

1969—Subsec. (b)(2). Pub. L. 91-152, §§ 106(b), 113(i), substituted provisions qualifying for assistance payments the transferee of any cooperative member who has received assistance payments, provided that such transferee undertakes the obligation to pay occupancy charges, for provisions qualifying for assistance payments the transferee of the initial cooperative member receiving assistance payments, and substituted "$18,000" for "$15,000", "$21,000" for "$17,500" wherever appearing therein, and "$24,000" for "$20,000".

Subsec. (c). Pub. L. 91-152, §§ 106(a), 418(a), inserted reference to subsection (i) of this section, and added the further proviso authorizing the Secretary to continue making assistance payments.

Subsec. (h)(1). Pub. L. 91-152, § 107(a), substituted "$125,000,000 on July 1, 1969, by "$125,000,000 on July 1, 1970, and by $170,000,000 on July 1, 1971" for "$100,000,000 on July 1, 1969, and by $125,000,000 on July 1, 1970".

Subsec. (h)(2). Pub. L. 91-152, § 412(b), required the Secretary to report semiannually instead of annually to the respective Committees on Banking and Currency of the Senate and House of Representatives.

Subsec. (h)(3)(A). Pub. L. 91-152, § 109(1), added "and" following "July 1, 1969".

Subsec. (h)(3)(B). Pub. L. 91-152, § 109(2), substituted "30 per centum" for "15 per centum" and "July 1, 1971," for "July 1, 1970, and".

Subsec. (h)(3)(C). Pub. L. 91-152, § 109(2), struck out subsec. (h)(3)(C) which limited the amount available for home-ownership assistance payments to 10 per centum of the total additional amount of contracts for assistance payments authorized by appropriation Acts made prior to July 1, 1971.

Subsec. (i)(3)(B). Pub. L. 91-152, § 113(i), substituted "$18,000" for "$15,000", "$21,000" for "$17,500" wherever appearing therein, and "$24,000" for "$20,000".

Subsec. (m). Pub. L. 91-152, § 101(d), added subsec. (m).

FINANCING PURCHASE OF DWELLING FROM NONPROFIT ORGANIZATION AFTER AUGUST 1, 1968

Section 101(c)(4) of Pub. L. 90-448 provided that: "The purchase of any individual dwelling, sold by a nonprofit organization pursuant to the provisions of section 221(h)(5) of the National Housing Act [section 1715*l*(h)(5) of this title] after the date of enactment of this section [Aug. 1, 1968], may be financed with a mortgage insured under the provisions of section 235(j)(4) of such Act [subsec. (j)(4) of this section], but such mortgage shall bear interest at the rate provided in section 235(j)(2)(C) of such Act [subsec. (j)(2)(C) of this section]."

CEILING ON TOTAL HOMEOWNERSHIP ASSISTANCE PAYMENTS IN ANY FISCAL YEAR

Pub. L. 90-608, ch. IV, § 401, Oct. 21, 1968, 82 Stat. 1193, provided in part that the total payments that may be required in any fiscal year by all contracts entered into under section 235 of the National Housing Act [this section] shall not exceed $25,000,000.

Pub. L. 91-47, title II, § 201, July 22, 1969, 83 Stat. 53, increased by $45,000,000 the limitation on total payments that may be required in any fiscal year by all contracts entered into under section 235 of the National Housing Act, as amended (82 Stat. 477) [this section].

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (j)(2)(C) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701u, 1701w, 1701x, 1709-1, 1715c, 1715h, 1715q, 1715z-2, 1715z-3, 1720, 1735b, 1735c of this title; title 40 section 484b; title 42 sections 1439, 1457, 1483, 1490a, 1490c, 2982c.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47-801a of the District of Columbia Code.

§ 1715z-1. Rental and cooperative housing for lower income families

(a) Authorization for periodic interest reduction payments on behalf of owner of rental housing project

For the purpose of reducing rentals for lower income families, the Secretary is authorized to make, and to contract to make, periodic interest reduction payments on behalf of the owner of a rental housing project designed for occupancy by lower income families, which shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section.

(b) Restrictions on payments; payments with respect to projects financed under State or local programs; mortgage insurance premium

Interest reduction payments with respect to a project shall only be made during such time as the project is operated as a rental housing project and is subject to a mortgage which meets the requirements of, and is insured under, subsection (j) of this section: *Provided,* That the Secretary is authorized to continue making such interest reduction payments where the mortgage has been assigned to the Secretary: *Provided further,* That interest reduction payments may be made with respect to a mortgage or part thereof on a rental or cooperative housing project owned by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, or a cooperative housing corporation, which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which may involve either new or existing construction and which is approved for receiving the benefits of this section. The term "mortgage insurance premium", when used in this section in relation to a project financed by a loan under a State or local program, means such fees and charges, approved by the Secretary, as are payable by the mortgagor to the State or local agency mortgagee to meet reserve requirements and administrative expenses of such agency.

(c) Amount of payments

The interest reduction payments to a mortgagee by the Secretary on behalf of a project owner shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the project owner as a mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such project owner would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(d) Mortgage handling expenses

The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c) of this section, as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(e) Operation of project in accordance with requirements respecting tenant eligibility and rents prescribed by Secretary

As a condition for receiving the benefits of interest reduction payments, the project owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenant incomes at intervals of two years (or at shorter intervals where the Secretary deems it desirable).

(f) Establishment of basic and fair market rental charges; rental for dwelling units; separate utility metering; additional assistance payments for low-income tenants; limitations; amounts; establishment, etc., of initial operating expense level of projects

(1) For each dwelling unit there shall be established with the approval of the Secretary (A) a basic rental charge determined on the basis of operating the project with payments of principal and interest due under a mortgage bearing interest at the rate of 1 per centum per annum; and (B) a fair market rental charge determined on the basis of operating the project with payments of principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage covering the project. The rental for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge, as represents 25 per centum of the tenant's income.

With respect to those projects which the Secretary determines have separate utility metering for some or all dwelling units, the Secretary is authorized—

(i) to permit the basic rental charge and the fair market rental charge to be determined on the basis of operating the project without the payment of the cost of utility services used by such dwelling units; and

(ii) to permit the charging of a rental for such dwelling units at such an amount less than 25 per centum of a tenant's income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall such rental be lower than 20 per centum of a tenant's income.

(2) With respect to 20 per centum of the dwelling units in any project made subject to a contract under this section after August 22, 1974, the Secretary shall make, and contract to make, additional assistance payments to the project owner on behalf of tenants whose incomes are too low for them to afford the basic rentals (including the amount allowed for utilities in the case of a project with separate utility metering) with 25 per centum of their income. The additional assistance payments authorized by this paragraph with respect to any dwelling unit shall be the amount required to reduce the rental payment (including the amount allowed for utilities in the case of a project with separate utility metering) by the tenant to 25 per centum of the tenant's income. In no case shall such rental payment be reduced below an amount equal to utility costs attributable to the unit occupied by the tenant, unless the Secre-

tary determines that the application of this requirement in any area would result in undue hardship because of unusually high utility costs prevailing seasonally or otherwise in such area. Notwithstanding the foregoing provisions of this paragraph, the Secretary may—

(A) reduce such 20 per centum requirement in the case of any project if he determines that such action is necessary to assure the economic viability of the project; or

(B) increase such 20 per centum requirement in the case of any project if he determines that such action is necessary and feasible in order to, assure, insofar as is practicable, that there is in the project a reasonable range in the income levels of tenants, or that such action is to be taken to meet the housing needs of elderly or handicapped families.

(3) For each project there shall be established an initial operating expense level, which shall be the sum of the cost of utilities and local property taxes payable by the project owner at the time the Secretary determines the property to be fully occupied, taking into account anticipated and customary vacancy rates. At any time subsequent to the establishment of an initial operating expense level, the Secretary is authorized to make, and contract to make, additional assistance payments to the project owner in an amount up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level, but not to exceed the amount required to maintain the basic rentals of any units at levels not in excess of 30 per centum, or such lower per centum not less than 25 per centum as shall reflect the reduction permitted in clause (ii) of the last sentence of paragraph (1), of the income of tenants occupying such units. Any contract to make additional assistance payments may be amended periodically to provide for appropriate adjustments in the amount of the assistance payments. Additional assistance payments shall be made pursuant to this paragraph only if the Secretary finds that the increase in the cost of utilities or local property taxes, is reasonable and is comparable to cost increases affecting other rental projects in the community.

(g) Collection and deposit of excess rental charges for reserve fund for additional assistance payments; availability; establishment of initial operating expense level of assisted project

The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected in excess of the basic rental charges. Such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f) of this section. During any period that the Secretary determines that the balance in the reserve fund is adequate to meet the estimated additional assistance payments, such excess charges shall be credited to the appropriation authorized by subsection (i) of this section and shall be available until the end of the next fiscal year for the purpose of making assistance payments with respect to rental housing projects receiving assistance under this section. For the purpose of this subsection and paragraph (3) of subsection (f) of this section, the initial operating expense level for any project assisted under a contract entered into prior to August 22, 1974, shall be established by the Secretary not later than 180 days after August 22, 1974.

(h) Rules and regulations

In addition to establishing the requirements specified in subsection (e) of this section, the Secretary is authorized to make such rules and regulations, to enter into such agreements, and to adopt such procedures as he may deem necessary or desirable to carry out the provisions of this section.

(i) Authorization of appropriations; aggregate amount of contracts; contracts for assistance payments; income limitations; availability of amounts for projects approved prior to rehabilitation and projects for occupancy by elderly or handicapped families; definitions

(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make interest reduction payments under contracts entered into by the Secretary under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971 and by $75,000,000 on July 1, 1974.

(2) Contracts for assistance payments under this section may be entered into only with respect to tenants whose incomes do not exceed 80 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

(3) Not less than 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to rehabilitation.

(4) At least 20 per centum of the total amount of contracts for assistance payments authorized in appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to projects which are planned in whole or in part for occupancy by elderly or handicapped families. As used in this paragraph, the term "elderly families" means families which consist of two or more persons the head of which (or his spouse) is sixty-two years of age or over or is handicapped. Such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which

(A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions.

(j) Insurance of mortgages; definitions; eligibility for insurance; mortgage requirements; property or project requirements; sale of individual dwelling units; release of mortgagor from liability or release of property from lien of mortgage

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of this subsection. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as he may prescribe.

(2) As used in this subsection—

(A) the terms "family" and "families" shall have the same meaning as in section 1715*l* of this title;

(B) the term "elderly or handicapped families" shall have the same meaning as in section 1701q of this title; and

(C) the terms "mortgage", "mortgagee", and "mortgagor" shall have the same meaning as in section 1707 of this title.

(3) To be eligible for insurance under this subsection, a mortgage shall meet the requirements specified in subsections (d)(1) and (d)(3) of section 1715*l* of this title, except as such requirements are modified by this subsection. In the case of a project financed with a mortgage insured under this subsection which involves a mortgagor other than a cooperative or a private nonprofit corporation or association and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payment of all operating expenses, taxes, and required reserves.

(4) A mortgage to be insured under this subsection shall—

(A) be executed by a private mortgagor eligible under subsection (d)(3) or (e) of section 1715*l* of this title;

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market; and

(C) provide for complete amortization by periodic payments within such term as the Secretary may prescribe.

(5) The property or project shall—

(A) comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of the property for mortgage insurance and may include such nondwelling facilities as the Secretary deems adequate and appropriate to serve the occupants and the surrounding neighborhood: *Provided,* That the project shall be predominantly residential and any nondwelling facility included in the mortgage shall be found by the Secretary to contribute to the economic feasibility of the project, and the Secretary shall give due consideration to the possible effect of the project on other business enterprises in the community: *Provided further,* That, in the case of a project designed primarily for occupancy by elderly or handicapped families, the project may include related facilities for use by elderly or handicapped families, including cafeterias or dining halls, community rooms, workshops, infirmaries, or other inpatient or outpatient health facilities, and other essential service facilities;

(B) include five or more dwelling units, but such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities; and

(C) be designed primarily for use as a rental project to be occupied by lower income families or by elderly or handicapped families: *Provided,* That lower income persons who are less than sixty-two years of age shall be eligible for occupancy in such a project.

In any case in which it is determined in accordance with regulations of the Secretary that facilities in existence or under construction on December 31, 1970, which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools or[1] residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the first proviso in subparagraph (A) except the requirement that the project be predominantly residential).

(6) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to lower income or elderly or handicapped purchasers. The Secretary may consent to the release of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may provide for such release.

(k) Definitions

As used in this section the term "tenant" includes a member of a cooperative; the term "rental housing project" includes a cooperative housing project; and the terms "rental" and "rental charge" mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(*l*) Allocation and transfer of reasonable portion of total authority to contract to make payments to Secretary of Agriculture for use in rural areas and small towns

The Secretary shall from time to time allocate and transfer to the Secretary of Agricul-

[1] So in original. Probably should be "of".

ture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make periodic interest reduction payments as approved in appropriation Acts under subsection (i) of this section.

(m) Deduction for minors in determining income limits; exclusion of earnings of minors

In determining the income of any person for the purposes of this section, there shall be deducted an amount equal to $300 for each minor person who is a member of the immediate family of such person and living with such family, and the earnings of any such minor person shall not be included in the income of such person or his family.

(n) Termination date for insurance of mortgages

No mortgage shall be insured under this section after September 30, 1977, except pursuant to a commitment to insure before that date.

(o) State funding of interest reduction payments

The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make interest reduction payments, subject to all the terms and conditions specified in this section and in rules, regulations and procedures adopted by the Secretary under this section, with respect to all or a part of a project covered by a mortgage insured under this section. Any funds provided by a State or agency thereof for the purpose of making interest reduction payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified therein. Before entering into any agreements pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of interest reduction payments for the full period specified in the interest reduction contract.

(p) Contracts with State or local agencies for monitoring and supervision of management by private sponsors of assisted projects

The Secretary is authorized to enter into contracts with State or local agencies approved by him to provide for the monitoring and supervision by such agencies of the management by private sponsors of projects assisted under this section. Such contracts shall require that such agencies promptly report to the Secretary any deficiencies in the management of such projects in order to enable the Secretary to take corrective action at the earliest practicable time.

(June 27, 1934, ch. 847, title II, § 236, as added Aug. 1, 1968, Pub. L. 90-448, title II, § 201(a), 82 Stat. 498, and amended Dec. 24, 1969, Pub. L. 91-152, title I, §§ 101(e), 107(b), 108, title IV, §§ 412(c), 418(b), 83 Stat. 379, 381, 398, 402; Dec. 31, 1970, Pub. L. 91-609, title I, §§ 101(e), 102(b), 108, 114(b), 114[115](b), 117(c), 118(a), 121, 84 Stat. 1770, 1772-1776; Oct. 18, 1972, Pub. L. 92-503, § 1(e), 86 Stat. 906; Aug. 10, 1973. Pub. L. 93-85, § 1(e), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93-117, § 1(e), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93-383, title II, § 212, 88 Stat. 672; Dec. 23, 1975, Pub. L. 94-173, § 4(b), 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94-375, § 4, 90 Stat. 1070.)

CODIFICATION

Subsec. (o), added as subsec. (n) by Pub. L. 91-609, § 121(a), designated subsec. (o) in the Code as a prior subsec. (n) was added by Pub. L. 91-152, and amended by Pub. L. 91-609, § 101(e).

AMENDMENTS

1976—Subsec. (f)(2). Pub. L. 94-375, § 4(b), inserted "(including the amount allowed for utilities in the case of a project with separate utility metering)" following "basic rentals" and "reduce the rental payment", and struck out "or such lower per centum as may be established pursuant to the provisions of clause (ii) of the last sentence of paragraph (1)" which followed "25 per centum of their income" and "25 per centum of the tenant's income".

Subsec. (n). Pub. L. 94-375, § 4(a), substituted "September 30, 1977" for "June 30, 1976".

1975—Subsec. (j)(5)(C). Pub. L. 94-173 struck out a provision limiting to 10 per centum the number of dwelling units available to lower income persons under the age of 62.

1974—Subsec. (f). Pub. L. 93-383, § 212(1), (2), redesignated existing subsec. (f) as (f)(1) and cls. (1) and (2) as (A) and (B), respectively, and added provisions relating to separate utility metering and pars. (2) and (3).

Subsec. (g). Pub. L. 93-383, § 212(3), substituted provisions authorizing the creation of a reserve fund of excess rental charges and providing for use of such fund for making additional assistance payments, for provisions authorizing the Secretary to deposit excess charges in a revolving fund used for making interest reduction payments to any housing project receiving assistance, and authorizing investment of monies in United States obligations.

Subsec. (i)(1). Pub. L. 93-383, § 212(4), added authorization for increase by $75,000,000 on July 1, 1974.

Subsec. (i)(2). Pub. L. 93-383, § 212(5), substituted provisions relating to contracts for assistance payments and income limitations with respect to families involved in such contracts, for provisions relating to contracts for interest reduction payments, income limitations with respect to families involved in such contracts, and semiannual reports to Congressional Committees on income levels of families living in assisted projects.

Subsec. (i)(3). Pub. L. 93-383, § 212(5), substituted provisions relating to availability of not less than 10 per centum of the total amount of contracts for assistance payments, for provisions relating to contracts for not more than 10 per centum of the total amount of interest reduction payments.

Subsec. (i)(4). Pub. L. 93-383, § 212(5), added subsec. (i)(4).

Subsec. (n). Pub. L. 93-383, § 212(6), substituted "June 30, 1976" for "October 1, 1974".

Subsec. (p). Pub. L. 93-383, § 212(7), added subsec. (p).

1973—Subsec. (n). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Subsec. (n). Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Subsec. (b). Pub. L. 91-609, §§ 108, 118(a), added definition of "mortgage insurance premium" and substituted "which may involve either new or existing construction and which" for "which prior to completion of construction or rehabilitation" preceding "is approved", respectively.

Subsec. (g). Pub. L. 91-609, § 117(c), provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

Subsec. (i)(1). Pub. L. 91–609, §§ 102(b), 121(b), in second sentence inserted "outstanding" before "contracts" where first appearing and substituted "$150,000,000 on July 1, 1970" and "$200,000,000 on July 1, 1971" for "$125,000,000 on July 1, 1970" and "$170,000,000 on July 1, 1971", and in first sentence inserted "by the Secretary" following "entered into", respectively.

Subsec. (i)(3). Pub. L. 91–609, § 114[115](b)(2), added par. (3).

Subsec. (j)(5). Pub. L. 91–609, §§ 114(b), 114[115](b)(1), provided for use of certain housing facilities for classroom purposes where public schools in the community are overcrowded due in part to attendance of residents of the property or project, but dispensed with need for kitchen facilities in dwelling units in projects for displaced, elderly, or handicapped families.

Subsec. (n). Pub. L. 91–609, § 101(e), substituted "October 1, 1972" for "October 1, 1971".

Subsec. (o). Pub. L. 91–609, § 121(a), added subsec. (o). See codification note respecting code designation of the provision.

1969—Subsec. (b). Pub. L. 91–152, §§ 108, 418(b), added proviso authorizing the Secretary to continue making interest reduction payments where the mortgage has been assigned to him, and added "mortgage or part thereof on a" following "with respect to a".

Subsec. (i)(1). Pub. L. 91–152, § 107(b), substituted "$125,000,000 on July 1, 1969, by $125,000,000 on July 1, 1970, and by $170,000,000 on July 1, 1971" for "$100,000,000 on July 1, 1969, and by $125,000,000 on July 1, 1970".

Subsec. (i)(2). Pub. L. 91–152, § 412(c), required the Secretary to report semiannually instead of annually to the respective Committees on Banking and Currency of the Senate and House of Representatives.

Subsec. (n). Pub. L. 91–152, § 101(e), added subsec. (n).

DIRECT FINANCING STUDY BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT AND SECRETARY OF TREASURY; REPORT TO CONGRESS; TRANSMITTAL NOT LATER THAN ONE YEAR AFTER AUGUST 22, 1974

Section 822 of Pub. L. 93–383 required the Secretary of Housing and Urban Development and the Secretary of the Treasury to study the feasibility of financing the programs authorized under section 236 of the National Housing Act [this section] and section 802 of this Act [section 1440 of Title 42] through various financing methods, including direct loans from the Federal Financing Bank, with a view to determining whether there was any method that would result in net savings to the Federal Government (after taking into account the direct and indirect effects of such method) and to transmit to the Congress a report on the study not later than one year after Aug. 22, 1974.

TRANSFER OF INSURANCE OF MORTGAGES NOT FINALLY ENDORSED FOR INSURANCE UNDER SECTION 1715*l*(d)(3) OF THIS TITLE

Section 201(c) of Pub. L. 90–448 provided that: "The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to transfer to section 236(j) of the National Housing Act [subsec. (j) of this section] the insurance of a mortgage which has not be [sic] finally endorsed for insurance under section 221(d)(3) of such Act [section 1715*l*(d)(3) of this title] and which has been approved for the below-market interest rate prescribed in the proviso of section 221(d)(5) of such Act [section 1715*l*(d)(5) of this title]."

INSURANCE OF MORTGAGES GIVEN TO REFINANCE MORTGAGE LOANS MADE UNDER SECTION 1701q OF THIS TITLE

Section 201(d) of Pub. L. 90–448 provided that: "The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to insure under section 236(j) of the National Housing Act [subsec. (j) of this section] a mortgage meeting the requirements of such section which is given to refinance a mortgage loan made under section 202 of the Housing Act of 1959 [section 1701q of this title]: *Provided*, That the application for such insurance is filed with the Secretary on or before the date of project completion, or within such reasonable time thereafter as the Secretary may permit."

CEILING ON TOTAL INTEREST REDUCTION PAYMENTS IN ANY FISCAL YEAR

Pub. L. 90–608, ch. IV, § 401, Oct. 21, 1968, 82 Stat. 1193, provided in part that the total payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act [this section] shall not exceed $25,000,000.

Pub. L. 91–47, title II, § 201, July 22, 1969, 83 Stat. 53, increased by $45,000,000 the limitation on total payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (82 Stat. 498) [this section].

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (j) (4) (B) of this section, see section 1709–1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701s, 1701u, 1709–1, 1715c, 1715h, 1715r, 1715z to 1715z–3, 1715z–6, 1715z–9, 1717, 1720, 1735c of this title; title 7 section 2012; title 26 section 1250; title 40 section 484b; title 42 sections 1439, 1457, 1483, 1490a, 1490c, 2982c.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47–801a of the District of Columbia Code.

§ 1715z–2. Special mortgage insurance assistance

(a) Purpose

The purpose of this section is to help provide adequate housing for families of low and moderate income, including those who, for reasons of credit history, irregular income patterns caused by seasonal employment, or other factors, are unable to meet the credit requirements of the Secretary for the purchase of a single-family home financed by a mortgage insured under section 1709, 1715k, 1715*l*, 1715y, or 1715z(j)(4) of this title, but who, through the incentive of homeownership and counseling assistance, appear to be able to achieve homeownership.

(b) Authorization to insure mortgages meeting requirements of section

The Secretary is authorized upon application by the mortgagee to insure under this section any mortgage meeting the requirements of this section.

(c) Eligibility for insurance

To be eligible for insurance under this section, a mortgage shall—

(1) meet the requirements of section 1709 (except subsection (m)), 1715k(d)(3)(A), 1715*l*(d)(2), (h)(5), (i), 1715y(c), or 1715z(j)(4) of this title, except as such requirements are modified by this section;

(2) involve a principal obligation (including such initial service charges, and such appraisal, inspection, and other fees, as the Secretary shall approve) in an amount not to exceed $18,000: *Provided*, That the Secretary may increase the amount to not exceed

$21,000 in any geographical area where he finds that cost levels so require: *Provided further,* That no mortgage meeting the requirements of section 1709 (h) or (i) of this title shall be eligible for insurance under this section if its principal obligation is in excess of the maximum limits prescribed in such section;

(3) be executed by a mortgagor who the Secretary has determined, after a full and complete study of the case, would not be an acceptable credit risk for mortgage insurance purposes under sections 1709, 1715k, 1715*l*, 1715y, or 1715z(j)(4) of this title, because of his credit standing, debt obligations, total annual income, or income characteristics, but who the Secretary is satisfied would be a reasonably satisfactory credit risk, consistent with the objectives stated in subsection (a) of this section, if he were to receive budget, debt management, and related counseling: *Provided,* That, in determining whether the mortgagor is a reasonably satisfactory credit risk, the Secretary shall review the credit history of the applicant giving special consideration to those delinquent accounts which were ultimately paid by the applicant and to extenuating factors which may have caused credit accounts of the applicant to become delinquent; and the Secretary shall also give special consideration to income characteristics of applicants whose total income over the two years prior to their applications has remained at levels of eligibility (as required under paragraph (4) of this subsection), but who, because of the character of this seasonal employment or for other reasons, have not maintained continuous employment under one employer during that time; and

(4) require monthly payments which, in combination with local real estate taxes on the property involved, do not exceed 25 per centum of the applicant's income, based on his average monthly income during the year prior to his application or the average monthly income during the three years prior to his application, whichever is higher.

(d) Preferences in approving mortgage insurance applications and in providing counseling services; eligible families

The Secretary shall give preference in approving mortgage insurance applications and in providing counseling services under this section (1) to families which are eligible for assistance payments under section 1715z of this title, and (2) to families living in public housing units, especially those families required to leave public housing because their incomes have risen beyond the maximum prescribed income limits, and families eligible for residence in public housing who have been displaced from federally assisted urban renewal areas.

(e) Budget, debt management, and related counseling services

The Secretary is authorized to provide, or contract with public or private organizations to provide, such budget, debt management, and related counseling services to mortgagors whose mortgages are insured under this section as he determines to be necessary to meet the objectives of this section. The Secretary may also provide such counseling to otherwise eligible families who lack sufficient funds to supply a down payment to help them to save an amount necessary for that purpose.

(f) Aggregate principal balance of mortgages insured

The aggregate principal balance of all mortgages insured under this section and outstanding at one time shall not exceed $200,000,000.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (e) of this section.

(June 27, 1934, ch. 847, title II, § 237, as added Aug. 1, 1968, Pub. L. 90-448, title I, § 102(a), 82 Stat. 485, and amended Dec. 24, 1969, Pub. L. 91-152, title I, §§ 110, 113(j), 83 Stat. 382, 385.)

AMENDMENTS

1969—Subsec. (c)(2). Pub. L. 91-152, § 113(j), substituted "$21,000" for "$17,500" and "$18,000" for "$15,000".

Subsec. (d). Pub. L. 91-152, § 110, added the provision requiring the Secretary to give a preference in providing counseling services to the specified families, inserted the material designated as cl. (1), and designated the existing material as cl. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715q, 1715z, 1715z-3, 1735c of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 47-801a of the District of Columbia Code.

§ 1715z-3. Special Risk Insurance Fund

(a) Entitlement to benefits; computation and payment of benefits to mortgagee

(1) Any mortgagee under a mortgage insured under section 1715z(i), (j)(4), 1715z-2, or 1715z-8 of this title shall be entitled to receive the benefits of the insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title. The provisions of subsections (b), (c), (d), (g), (j), and (k) of section 1710 of this title shall be applicable to mortgages insured under section 1715z(i), (j)(4), 1715z-2, or 1715z-8 of this title, except that all references therein to the "Mutual Mortgage Insurance Fund" shall be construed to refer to the "Special Risk Insurance Fund", and all references therein to section 1709 of this title shall be construed to refer to section 1715z(i), (j)(4), 1715z-2, or 1715z-8 of this title, as may be appropriate.

(2) Any mortgagee under a mortgage insured under section 1715z(j)(1) or 1715z-1 of this title shall be entitled to receive the benefits of insurance as provided in section 1713(g) of this title with respect to mortgages insured under section 1713 of this title. The provisions of subsections (d), (e), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall be applicable to mortgages insured under section 1715z(j)(1) or 1715z-1 of this title, except that all references therein to the "General Insurance Fund" shall be construed to refer to the "Special Risk Insurance Fund" and the premium charge provided in section 1713(d) of this title shall be payable only in cash or debentures of the Special Risk Insurance Fund.

(3) In lieu of the amount of insurance benefits computed pursuant to paragraph (1) or (2) of this subsection the Secretary, in his discretion and in accordance with such regulations as he may prescribe, may (with respect to any mortgage loan acquired by him) compute and pay insurance benefits to the mortgagee in a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage.

(b) Creation of fund; authorization for advancements; repayment; crediting of charges and fees; payments from fund; authorization of appropriations for losses; deposits to fund; open-market purchases of debentures which are obligations of fund

There is hereby created a Special Risk Insurance Fund (hereinafter referred to as the "fund") which shall be used by the Secretary as a revolving fund for carrying out the mortgage insurance obligations of sections 1715n(e), 1715x(a)(2), 1715z, 1715z–1, 1715z–2, and 1715z–8 of this title, and the Secretary is hereby authorized to advance to the fund, at such times and in such amounts as he may determine to be necessary, a total sum of $20,000,000 from the General Insurance Fund established pursuant to the provisions of section 1735c of this title. Such advance shall be repayable at such times and at such rates of interest as the Secretary deems appropriate. Premium charges, adjusted premium charges, inspection and other fees, service charges, and any other income received by the Secretary under sections 1715n(e), 1715x(a)(2), 1715z, 1715z–1, 1715z–2, and 1715z–8 of this title, together with all earnings on the assets of the fund, shall be credited to the fund. All payments made pursuant to claims of mortgagees with respect to mortgages insured under sections 1715x(a)(2), 1715z, 1715z–1, 1715z–2, and 1715z–8 of this title or pursuant to section 1715n(e) of this title, cash adjustments, the principal of and interest paid on debentures which are the obligation of the fund, expenses incurred in connection with or as a consequence of the acquisition and disposal of property acquired under such sections, and all administrative expenses in connection with the mortgage insurance operations under such sections shall be paid out of the fund. There is authorized to be appropriated such sums as may be needed from time to time to cover losses sustained by the fund in carrying out the mortgage insurance obligations of sections 1715n(e), 1715x(a)(2), 1715z, 1715z–1, 1715z–2, and 1715z–8 of this title. Moneys in the fund not needed for current operations of the fund shall be deposited with the Treasurer of the United States to the credit of the fund or invested in bonds or other obligations of, or in bonds or other obligations guaranteed by, the United States or any agency of the United States: *Provided,* That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary, with the approval of the Secretary of the Treasury, may purchase in the open market debentures which are the obligation of the fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtained from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(c) Mortgage insurance for military impacted areas; criteria

The Special Risk Insurance Fund may be used by the Secretary for carrying out the mortgage insurance obligations of sections 1709 and 1713 of this title to provide housing for military personnel, Federal civilian employees, and Federal contractor employees assigned to duty or employed at or in connection with any installation of the Armed Forces of the United States in federally impacted areas where, in the judgment of the Secretary (1) the residual housing requirements for persons not assoiciated with such installations are insufficient to sustain the housing market in the event of substantial curtailment of employment of personnel assigned to such installations, and (2) the benefits to be derived from such use outweigh the risk of possible cost to the Government.

(June 27, 1934, ch. 847, title II, § 238, as added Aug. 1, 1968, Pub. L. 90–448, title I, § 104(a), 82 Stat. 487, and amended Dec. 24, 1969, Pub. L. 91–152, title IV, § 415, 83 Stat. 401; July 24, 1970, Pub. L. 91–351, title V, § 503, 84 Stat. 461; Dec. 31, 1970, Pub. L. 91–609, title I, § 117(d), 84 Stat. 1775; Aug. 22, 1974, Pub. L. 93–383, title III, § 318, 88 Stat. 685.)

AMENDMENTS

1974—Subsec. (c). Pub. L. 93–383 added subsec. (c).

1970—Subsec. (a)(1). Pub. L. 91–351, § 503(1), inserted references to section 1715z–8 of this title wherever appearing therein.

Subsec. (b). Pub. L. 91–609 provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

Pub. L. 91–351, § 503(2), inserted references to section 1715z–8 of this title wherever appearing therein.

1969—Subsec. (b). Pub. L. 91–152 increased from $5,000,000 to a total sum of $20,000,000, at such times and in such amounts as he may determine to be necessary, the amount authorized to be advanced by the Secretary to the Fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715v of this title.

§ 1715z–4. Modifications in terms of insured mortgages covering multifamily projects

(a) Requests for extensions to cure defaults or for modification of mortgage terms; regulations

The Secretary shall not consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, as defined in the regulations of the Secretary, or for a modification of the terms of such mortgage, except in conformity with regulations prescribed by the Secretary in accordance with the provisions of this section. Such regulations shall require, as a condition to the granting of any such request, that, during the period of such extension or modification, any part of the rents or other funds derived by the mortgagor from the property covered by the mortgage which is not required to meet actual

and necessary expenses arising in connection with the operation of such property, including amortization charges under the mortgage, be held in trust by the mortgagor and distributed only with the consent of the Secretary; except that the Secretary may provide for the granting of consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, or for a modification of the term of such mortgage, without regard to the foregoing requirement, in any case or class of cases in which an exemption from such requirement does not (as determined by the Secretary) jeopardize the interests of the United States.

(b) Violations and penalties

Whoever, as an owner of a property which is security for a mortgage described in subsection (a) of this section, or as a stockholder of a corporation owning such property, or as a beneficial owner under any business organization or trust owning such property, or as an officer, director, or agent of any such owner, (1) willfully uses or authorizes the use of any part of the rents or other funds derived from property covered by such mortgage in violation of a regulation prescribed by the Secretary under subsection (a) of this section, or (2) if such mortgage is determined, as provided in subsection (a) of this section, to be exempt from the requirement of any such regulation or is not otherwise covered by such regulation, willfully and knowingly uses or authorizes the use, while such mortgage is in default, of any part of the rents or other funds derived from the property covered by such mortgage for any purpose other than to meet actual and necessary expenses arising in connection with such property (including amortization charges under the mortgage), shall be fined not more than $5,000 or imprisoned not more than three years, or both.

(June 27, 1934, ch. 847, title II, § 239, as added Aug. 1, 1968, Pub. L. 90-448, title III, § 302, 82 Stat. 506.)

§ 1715z-5. Purchase of fee simple title from lessors

(a) Authorization to insure loans for purpose of financing purchases

The Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure and to insure loans made by financial institutions for the purpose of financing purchasers[1] by homeowners of the fee simple title to property on which their homes are located.

(b) Definitions

As used in this section—

(1) the term "financial institution" means a lender approved by the Secretary as eligible for insurance under section 1703 of this title or a mortgagee approved under section 1709(b)(1) of this title; and

(2) the term "homeowner" means a lessee under a long-term ground lease.

(c) Eligibility for insurance

To be eligible for insurance under this section, a loan shall—

(1) relate to property on which there is located a dwelling designed principally for a one-, two-, three-, or four-family residence;

(2) not exceed the cost of purchasing the fee simple title, or $10,000 per family unit, whichever is the lesser;

(3) be limited to an amount which when added to any outstanding indebtedness related to the property (as determined by the Secretary) creates a total outstanding indebtedness which does not exceed the applicable mortgage limit prescribed in section 1709(b) of this title;

(4) bear interest at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet market conditions, and such other charges (including service charges and appraisal, inspection, and other fees) as may be approved by the Secretary;

(5) have a maturity satisfactory to the Secretary, but not to exceed twenty years from the beginning of amortization of the loan or three-quarters of the remaining economic life of the home, whichever is the lesser; and

(6) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

(d) Applicability of other provisions of law

The provisions of paragraphs (3), (5), (6), (7), (8), and (10) of section 1715k(h) of this title shall be applicable to loans insured under this section and, as applied to loans insured under this section, references in those paragraphs to "home improvement loans" and "this subsection" shall be construed to refer to loans under this section.

(June 27, 1934, ch. 847, title II, § 240, as added Aug. 1, 1968, Pub. L. 90-448, title III, § 304(a), 82 Stat. 507.)

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (c)(4) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1464, 1709-1 of this title.

§ 1715z-6. Supplemental loans for multifamily projects

(a) Authorization to insure; definition

With respect to a multifamily project, hospital, or group practice facility covered by a mortgage insured under any section or subchapter of this chapter or covered by a mortgage held by the Secretary, the Secretary is authorized, upon such terms and conditions as he may prescribe, to made[1] commitments to insure, and to insure, supplemental loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. As used in this section, "supplemental loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made for the purpose of financing improvements or additions to such pro-

[1] So in original. Probably should be "purchases."

[1] So in original.

ject, hospital, or facility: *Provided,* That a loan involving a nursing home, hospital, or a group practice facility may also be made for the purpose of financing equipment to be used in the operation of such nursing home, hospital, or facility.

(b) Eligibility for insurance

To be eligible for insurance under this section, a supplemental loan shall—

(1) be limited to 90 per centum of the amount which the Secretary estimates will be the value of such improvements, additions, and equipment, except that such amount when added to the outstanding balance of the mortgage covering the project or facility, shall not exceed the maximum mortgage amount insurable under the section or subchapter pursuant to which the mortgage covering such project of [1] facility is insured or an amount acceptable to the Secretary;

(2) have a maturity satisfactory to the Secretary but not to exceed the remaining term of the mortgage;

(3) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet market conditions;

(4) be secured in such manner as the Secretary may require;

(5) be governed by the labor standards provisions of section 1715c of this title that are applicable to the section or subchapter pursuant to which the mortgage covering the project or facility is insured or pursuant to which the original mortgage covering the project or facility was insured; and

(6) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

(c) Applicability of other provisions of law

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall be applicable to loans insured under this section, except that (1) all references to the term "mortgage" shall be construed to refer to the term "loan" as used in this section, (2) loans involving projects covered by a mortgage insured under section 1715e of this title that is the obligation of the Cooperative Management Housing Insurance Fund shall be insured under and shall be the obligation of such fund, and (3) loans involving projects covered by a mortgage insured under section 1715z-1 of this title shall be insured under and shall be the obligation of the Special Risk Insurance Fund.

(d) Authorization to insure loans for improvements or additions; terms and conditions; limitation on amount

Notwithstanding the foregoing, the Secretary may insure a loan for improvements or additions to a multifamily housing project, or a group practice or medical practice facility or hospital or other health facility approved by the Secretary, which is not covered by a mortgage insured under this chapter, if he finds that such a loan would assist in preserving, expanding, or improving housing opportunities, or in providing protection against fire or other hazards. Such loans shall have a maturity satisfactory to the Secretary and shall meet such other conditions as the Secretary may prescribe. In no event shall such a loan be insured if it is for an amount in excess of the maximum amount which could be approved if the outstanding indebtedness, if any, covering the property were a mortgage insured under this chapter.

(June 27, 1934, ch. 847, title II, § 241, as added Aug. 1, 1968, Pub. L. 90-448, title III, § 307, 82 Stat. 508, and amended Dec. 31, 1970, Pub. L. 91-609, title I, § 111, 84 Stat. 1772; Aug. 22, 1974, Pub. L. 93-383, title III, § 313, 88 Stat. 684; Aug. 3, 1976, Pub. L. 94-375, § 5, 90 Stat. 1070.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-375 inserted ", hospital," following "multifamily project", "additions to such project", "involving a nursing home", and "of such nursing home".

1974—Subsec. (d). Pub. L. 93-383 added subsec. (d).

1970—Subsec. (a). Pub. L. 91-609, § 111(1), (2), inserted in first sentence "or covered by a mortgage held by the Secretary" following "this chapter" and substituted in proviso "a nursing home or a group practice facility" for "a nursing home covered by a mortgage insured under section 1715w of this title or a loan involving a group practice facility covered by a mortgage insured under subchapter IX-B of this chapter", respectively.

Subsec. (b)(1). Pub. L. 91-609, § 111(3), inserted concluding text "or an amount acceptable to the Secretary".

Subsec. (b)(5), Pub. L. 91-609, § 111(4), inserted concluding text "or pursuant to which the original mortgage covering the project or facility was insured".

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (b)(3) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1709-1 of this title.

§ 1715z-7. Mortgage insurance for hospitals

(a) Purpose

The purpose of this section is to assist the provision of urgently needed hospitals for the care and treatment of persons who are acutely ill or who otherwise require medical care and related services of the kind customarily furnished only (or most effectively) by hospitals.

(b) Definitions

For the purposes of this section—

(1) the term "hospital" means a facility—

(A) which provides community service for inpatient medical care of the sick or injured (including obstetrical care);

(B) not more than 50 per centum of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis; and

(C) which is a proprietary facility, or facility of a private nonprofit corporation or

[1] So in original.

association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located); and

(2) the terms "mortgage" and "mortgagor" shall have the meanings respectfully set forth in section 1713(a) of this title.

(c) Authorization to insure

The Secretary is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) Insurance of mortgages covering new or rehabilitated hospitals, including equipment; terms and conditions

In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated hospital, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project, including equipment to be used in the operation of the hospital, when the proposed improvements are completed and the equipment is installed.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and

(B) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market.

(4) The Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 291d(a)(1) of title 42 for the State in which is located the hospital covered by the mortgage, a certification that (A) there is a need for such hospital, and (B) there are in force in such State or the political subdivision of the State in which the proposed hospital would be located reasonable minimum standards of licensure and methods of operation for hospitals. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any hospital located in the State for which mortgage insurance is provided under this section.

(e) Release of part of property or project from lien

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(f) Encouragement of programs undertaking responsibility to provide comprehensive health care

The activities and functions provided for in this section shall be carried out by the agencies involved so as to encourage programs that undertake responsibility to provide comprehensive health care, including outpatient and preventive care, as well as hospitalization, to a defined population.

(g) Insurance of mortgages providing permanent financing or refinancing of existing mortgage indebtedness; aggregate principal balance of mortgages

(1) Notwithstanding any of the other provisions of this subchapter, the Secretary may insure under this section a mortgage which provides permanent financing or refinancing of existing mortgage indebtedness in the case of a hospital whose permanent financing is presently lacking, if the construction of such hospital was completed between January 1, 1966, and August 1, 1968.

(2) The aggregate principal balance of all mortgages insured under paragraph (1) and outstanding at any one time shall not exceed $20,000,000.

(h) Applicability of other laws

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall be deemed to refer to this section.

(June 27, 1934, ch. 847, title II, § 242, as added Aug. 1, 1968, Pub. L. 90-448, title XV, § 1501, 82 Stat. 599, and amended Dec. 31, 1970, Pub. L. 91-609, title I, §§ 109, 110(a), 84 Stat. 1772; Aug. 22, 1974, Pub. L. 93-383, title III, § 304(i), 88 Stat. 678.)

AMENDMENTS

1974—Subsec. (d)(2). Pub. L. 93-383 struck out "not to exceed $50,000,000, and" following "an amount".

1970—Subsec. (b)(1)(C). Pub. L. 91-609, § 110(a), substituted as definition of "hospital" a facility "which is a proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located)" for "prior definition as a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual".

Subsec. (d)(2). Pub. L. 91-609, § 109, increased limitation on amount of mortgage from $25,000,000 to $50,000,000.

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (d)(3)(B) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709-1, 1715 of this title.

§ 1715z-8. Mortgage assistance payments for middle-income families

(a) Determination by Secretary of necessity; interest subsidy payments; effective date

Whenever he determines such action to be necessary in furtherance of the purposes set forth in section 501 of the Emergency Home Finance Act of 1970, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of families of middle income. The assistance shall be accomplished through interest subsidy payments to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation (hereinafter referred to as "the investor") with respect to mortgages meeting the special requirements specified in this section and made after July 24, 1970.

(b) Qualifications of mortgagor for assistance payments

To qualify for assistance payments a middle-income family shall be a mortgagor under a mortgage which is (1) insured under subsection (j) of this section, (2) guaranteed under chapter 37 of title 38, or (3) a conventional mortgage meeting the requirements of subsection (j)(3) of this section. In addition to the foregoing requirement, the Secretary may require that the mortgagor have an income, at the time of acquisition of the property, of not more than the median income for the area in which the property is located, as determined by the Secretary, with appropriate adjustments for smaller and larger families.

(c) Termination of interest subsidy payments

The interest subsidy payments authorized by this section shall cease when (1) the mortgagor no longer occupies the property which secures the mortgage, (2) the mortgages are no longer held by the investor, or (3) the rate of interest paid by the mortgagor reaches the rate of interest specified on the mortgage.

(d) Monthly mortgage payments as determining eligibility for interest subsidy payments; mortgage assistance payments for middle-income cooperative members; interest subsidy payments; applicability of provisions to cooperative mortgagors

(1) Interest subsidy payments shall be on mortgages on which the mortgagor makes monthly payments towards principal and interest equal to an amount which would be required if the mortgage bore an effective interest rate of 7 per centum per annum including any discounts or charges in the nature of points or otherwise (but not including premiums, if any, for mortgage insurance) or such higher rate (not to exceed the rate specified in the mortgage), which the mortgagor could pay by applying at least 20 per centum of his income towards homeownership expenses. As used in this subsection, the term "monthly homeownership expense" includes the monthly payment for principal, interest, mortgage insurance premium, insurance, and taxes due under the mortgage.

(2) In addition to the mortgages eligible for assistance under paragraph (1) of this subsection, the Secretary is authorized to make periodic assistance payments on behalf of cooperative members of middle income. Such assistance payments shall be accomplished through interest subsidy payments to the investor with respect to mortgages insured (subsequent to July 24, 1970) under section 1715e of this title which are executed by cooperatives, the membership in which is limited to middle-income families. For purposes of this paragraph—

(1) the term "mortgagor", when used in subsection (b) of this section in the case of a mortgage covering a cooperative housing project, means a member of the cooperative;

(2) the term "acquisition of the property", when used in subsection (b) of this section, means the family's application for a dwelling unit; and

(3) in the case of a cooperative mortgagor, subsection (c) of this section shall not apply and the interest subsidy payments shall cease when the mortgage is no longer held by the investor or the cooperative fails to limit membership to families whose incomes at the time of their application for a dwelling unit meets such requirements as are laid down by the Secretary pursuant to subsection (b) of this section.

(e) Amount of interest subsidy payments

The interest subsidy payments shall be in an amount equal to the difference, as determined by the Secretary, between the total amount of interest per calendar quarter received by the investor on mortgages assisted under this section and purchased by it and the total amount of interest which the investor would have received if the yield on such mortgages was equal to the sum of (1) the average costs (expressed as an annual percentage rate) to it of all borrowed funds outstanding in the immediately preceding calendar quarter, and (2) such per centum per annum as will provide for administrative and other expenses of the investor and a reasonable economic return, as determined by the Secretary to be necessary and appropriate taking into account the purpose of this section to provide additional mortgage credit at reasonable rates of interest to middle-income families.

(f) Adoption of procedures for recertifications of mortgagor's income

Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of the mortgagor's payments pursuant to subsection (d) of this section.

(g) Regulations to assure that sales price or other consideration paid is not increased above appraised value

The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

(h) Authorization of appropriations; aggregate amount of assistance payment contracts; termination date

(1) There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make interest subsidy payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $105,000,000 during the first year of such contracts prior to July 1, 1971, which amount shall be increased by an additional $105,000,000 during the first year of an additional number of such contracts on July 1 of each of the years 1971 and 1972.

(2) No interest subsidy payments under this section shall be made after June 30, 1973, except pursuant to contracts entered into on or before such date.

(i) Determination of family income; exclusion of income of minors

In determining the income of any family for the purposes of this section, income from all sources of each member of the family in the household shall be included, except that the Secretary shall exclude income earned by any minor person.

(j) Insurance of mortgages executed by mortgagors meeting eligibility requirements for assistance payments; issuance of commitment; eligibility requirements for insurance

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b) of this section. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 1715*l*(d)(2) or 1715y(c) of this title, except as such requirements are modified by this subsection: *Provided, however,* That in the discretion of the Secretary 25 per centum of the authority conferred by this section and subject to all the terms thereof may be used for mortgages on existing housing.

(3) A mortgage to be insured under this section shall—

(i) involve a single-family dwelling which has been approved by the Secretary prior to the beginning of construction, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit shall have had no previous occupant other than the mortgagor;

(ii) involve a single-family dwelling whose appraised value, as determined by the Secretary, is not in excess of $20,000 (which amount may be increased by not more than 50 per centum in any geographical area where the Secretary authorizes an increase on the basis of a finding that the cost level so requires).

(iii) be executed by a mortgagor who shall have paid in cash or its equivalent on account of the property (A) 3 per centum of the first $15,000 of the appraised value of the property, (B) 10 per centum of such value in excess of $15,000 but not in excess of $25,000, and (C) 20 per centum of such value in excess of $25,000.

(June 27, 1934, ch. 847, title II, § 243, as added July 24, 1970, Pub. L. 91-351, title V, § 502, 84 Stat. 458.)

REFERENCES IN TEXT

Section 501 of the Emergency Home Finance Act of 1970, referred to in subsec. (a), is section 501 of Pub. L. 91-351, which is set out as a note under this section.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 501 of Pub. L. 91-351 provided that:

"The Congress finds that—

"(1) periodic episodes of monetary stringency and high interest rates make it extremely difficult for families of middle income to obtain mortgage credit at rates which they can afford to pay;

"(2) periods of monetary stringency and high interest rates are directly related to the Government's monetary and fiscal policies;

"(3) a disproportionate share of the burden of sustaining these anti-inflationary policies of the Government falls on families of middle income who are buyers or prospective buyers of homes; and

"(4) the Government has a responsibility to lessen the disproportionate burden which such families bear as a result of such policies.

It is the purpose of this title [enacting this section, and amending sections 1715z-3 and 1719 of this title] to provide, during periods of high mortgage interest rates, a source of mortgage credit for such families which is within their financial means."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715z-3, 1719 of this title.

§ 1715z-9. Co-insurance of eligible mortgage, advance, or loan

(a) Authority of Secretary; request of mortgagee; premium charges; provisions of contract of co-insurance; non-applicability of state insurance laws

In addition to providing insurance as otherwise authorized under this chapter, and notwithstanding any other provision of this chapter inconsistent with this section, the Secretary, upon request of any mortgagee and for such mortgage insurance premium as he may prescribe (which premium, or other charges to be paid by the mortgagor, shall not exceed the premium, or other charges, that would otherwise be applicable), may insure and make a

commitment to insure under any provision of this subchapter any mortgage, advance, or loan otherwise eligible under such provision, pursuant to a co-insurance contract providing that the mortgagee will—

(1) assume a percentage of any loss on the insured mortgage, advance, or loan in direct proportion to the amount of the co-insurance, which co-insurance shall not be less than 10 per centum, subject to any reasonable limit or limits on the liability of the mortgagee that may be specified in the event of unusual or catastrophic losses that may be incurred by any one mortgagee; and

(2) carry out (under a delegation or otherwise and with or without compensation but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, commitment, property disposition, or other functions as the Secretary, pursuant to regulations, shall approve as consistent with the purposes of this chapter.

Any contract of co-insurance under this section shall contain such provisions relating to the sharing of premiums on a sound actuarial basis, establishment of mortgage reserves, manner of calculating insurance benefits, conditions with respect to foreclosure, handling and disposition of property prior to claim or settlement, rights of assignees (which may elect not to be subject to the loss sharing provisions), and other similar matters as the Secretary may prescribe pursuant to regulations. A mortgagee which enters into a contract of co-insurance under this section shall not by reason of such contract, or its adherence to such contract or applicable regulations of the Secretary, including provisions relating to the retention of risks in the event of sale or assignment of a mortgage, be made subject to any State law regulating the business of insurance.

(b) Inspection of construction of dwellings or projects as prerequisite; minimum standards or criteria applicable

No insurance shall be granted pursuant to this section with respect to dwellings or projects approved for insurance prior to the beginning of construction unless the inspection of such construction is conducted in accordance with at least the minimum standards and criteria used with respect to dwellings or projects approved for mortgage insurance pursuant to other provisions of this subchapter.

(c) Determination by Secretary that demonstration program of co-insurance does not disrupt mortgage market or reduce mortgage credit availability; consultation with lending industry

No insurance shall be granted pursuant to this section unless the Secretary has, after due consultation with the mortgage lending industry, determined that the demonstration program of co-insurance authorized by this section will not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend upon mortgage insurance provided under this chapter.

(d) Termination date; aggregate principal amount of mortgages and loans authorized to be insured; applicability of overall percentage limitations

No mortgage, advance, or loan shall be insured pursuant to this section after June 30, 1977, except pursuant to a commitment to insure made before that date. The aggregate principal amount of mortgages and loans insured pursuant to this section in any fiscal year beginning on or after July 1, 1974, and ending prior to October 1, 1977, shall not exceed 20 per centum of the aggregate principal amount of all mortgages and loans insured under this subchapter during such fiscal year. The overall percentage limitation specified in the preceding sentence shall also apply separately within each of the following categories—

(1) mortgages and loans covering one- to four-family dwellings; and

(2) mortgages and loans covering projects with five or more dwelling units.

(e) Availability unaffecting insurance otherwise authorized; criteria for exercise of authority by Secretary

The Secretary shall not withdraw, deny, or delay insurance otherwise authorized under any other provision of this chapter by reason of the availability of insurance pursuant to this section. The Secretary shall exercise his authority under this section only to the extent that he finds that the continued exercise of such authority will not adversely affect the flow of mortgage credit to older and declining neighborhoods and to the purchasers of older and lower cost housing.

(f) Annual report to Congress; contents; termination of authority of Secretary upon failure to submit report

The Secretary shall submit to the Congress a report, not later than March 1, 1975, and annually thereafter, describing operations under this section, including the extent of mortgagee participation and any special problems encountered, particularly with respect to the flow of mortgage credit to older and declining neighborhoods and to purchasers of older and lower cost housing, and setting forth any recommendations he may deem appropriate with respect to the continuation or modification of the authority contained in this section. If the Secretary shall fail to submit any such report by the date due, his authority under this section shall terminate.

(g) Public housing agency or insured depository institution as mortgagee of multifamily housing project; contract provisions; aggregate principal amount of all mortgages insured; loans on defaulted mortgages; insurance for state assisted projects and projects under construction; definitions; amount of reserves

(1) Where the mortgagee is a public housing agency or an insured depository institution and the mortgage covers a multifamily housing project, the co-insurance contract may provide that the mortgagee assume (i) the full amount of any loss on the insured mortgage up to an amount equal to a fixed percentage of the outstanding principal balance of the mortgage at the time of claim for insurance benefits, or (ii) the full amount of any losses on insured mortgages in a portfolio of mortgages approved by

the Secretary up to an amount equal to a fixed percentage of the outstanding principal balance of all mortgages in such portfolio at the time of claim for insurance benefits on a mortgage in the portfolio, plus a share of any loss in excess of the amount under clause (i) or (ii), whichever is applicable.

(2) The second sentence of subsection (d) of this section shall not apply to mortgages made to public housing agencies, but for purposes of such second sentence such mortgages shall not be counted in the aggregate principal amount of all mortgages insured under this subchapter.

(3) The Secretary may make loans, from the applicable insurance fund, to public housing agencies in connection with mortgages which have been insured pursuant to this subsection and which are in default.

(4) The Secretary may insure and make a commitment to insure in connection with a coinsurance contract pursuant to this subsection (A) a mortgage on a project assisted under the second proviso in the first sentence of section 1715z-1(b) of this title, and (B) a mortgage or advance on a mortgage made to a public housing agency on a project under construction which is not approved for insurance prior to construction.

(5) As used in this subsection, the term "public housing agency" has the same meaning as in section 1437a(6) of title 42, and the term "insured depository institution" means any savings bank, savings and loan association, commercial bank or other such depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or by an agency or instrumentality of a State.

(6) Notwithstanding any other provision of this chapter, the Secretary may include in the determination of replacement cost of a project to be covered by a mortgage made to a public housing agency and insured pursuant to this subsection, such reserves and development costs, not to exceed 5 per centum of the amount otherwise allowable, as may be established or authorized by the public housing agency consistent with such agency's procedures and underwriting standards.

(June 27, 1934, ch. 847, title II, § 244, as added Aug. 22, 1974, Pub. L. 93-383, title III, § 307, 88 Stat. 679, and amended Aug. 3, 1976, Pub. L. 94-375, § 6, 90 Stat. 1070.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-375, § 6(b), added, in the material following par. (2), a provision excluding a mortgagee which enters into a contract under this section from regulation by state insurance laws.

Subsec. (g). Pub. L. 94-375, § 6(a), added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1437f.

§ 1715z-10. Experimental insurance of mortgages and loans; criteria; outstanding aggregate principal amount of mortgages authorized; termination date

The Secretary may insure on an experimental basis under any provision of this subchapter mortgages and loans with provisions of varying rates of amortization corresponding to anticipated variations in family income to the extent he determines such mortgages or loans (1) have promise for expanding housing opportunities or meet special needs, (2) can be developed to include any safeguards for mortgagors or purchasers that may be necessary to offset special risks of such mortgages, and (3) have a potential for acceptance in the private market. The outstanding aggregate principal amount of mortgages which are insured pursuant to this section may not exceed 1 per centum of the outstanding aggregate principal amount of mortgages and loans estimated to be insured during any fiscal year under this subchapter. A mortgage or loan may not be insured pursuant to this section after September 30, 1977, except pursuant to a commitment entered into prior to such date.

(June 27, 1934, ch. 847, title II, § 245, as added Aug. 22, 1974, Pub. L. 93-383, title III, § 308, 88 Stat. 680, and amended Aug. 3, 1976, Pub. L. 94-375, § 7, 90 Stat. 1071.)

AMENDMENTS

1976—Pub. L. 94-375 substituted "September 30, 1977" for "June 30, 1976".

§ 1715z-11. Sale to cooperatives of multifamily housing projects acquired by Secretary; acceptance of purchase money mortgage for sale; principal amount of mortgage; expenditures for repairs, etc., prior to sale

In any case in which the Secretary sells a multifamily housing project acquired as the result of a default on a mortgage which was insured under this chapter to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, the Secretary may accept a purchase money mortgage in a principal amount equal to the sum of (1) the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves, and (2) the amount of prepaid expenses and costs involved in achieving cooperative ownership. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.

(June 27, 1934, ch. 847, title II, § 246, as added Aug. 22, 1974, Pub. L. 93-383, title III, § 315, 88 Stat. 684.)

SUBCHAPTER III—NATIONAL MORTGAGE ASSOCIATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1702, 1705 of this title; title 26 section 162.

§ 1716. Declaration of purposes of subchapter

The Congress declares that the purposes of this subchapter are to establish secondary market facilities for home mortgages, to provide that the operations thereof shall be financed by private capital to the maximum extent feasible, and to authorize such facilities to—

(a) provide supplementary assistance to the secondary market for home mortgages by pro-

viding a degree of liquidity for mortgage investments, thereby improving the distribution of investment capital available for home mortgage financing;

(b) provide special assistance (when, and to the extent that, the President has determined that it is in the public interest) for the financing of (1) selected types of home mortgages (pending the establishment of their marketability) originated under special housing programs designed to provide housing of acceptable standards at full economic costs for segments of the national population which are unable to obtain adequate housing under established home financing programs, and (2) home mortgages generally as a means of retarding or stopping a decline in mortgage lending and home building activities which threatens materially the stability of a high level national economy; and

(c) manage and liquidate federally owned mortgage portfolios in an orderly manner, with a minimum of adverse effect upon the home mortgage market and minimum loss to the Federal Government.

(June 27, 1934, ch. 847, title III, § 301, 48 Stat. 1252; May 28, 1935, ch. 150, § 30, 49 Stat. 300; Feb. 3, 1938, ch. 13, §§ 4, 5, 52 Stat. 23; June 3, 1939, ch. 175, §§ 15, 16, 53 Stat. 808; Mar. 28, 1941, ch. 31, § 5, 55 Stat. 62; July 1, 1948, ch. 784, § 1, 62 Stat. 1206; Aug. 10, 1948, ch. 832, title II, §§ 201, 202, 62 Stat. 1275; Aug. 8, 1949, ch. 403, § 4, 63 Stat. 576; Oct. 25, 1949, ch. 729, § 7, 63 Stat. 906; Apr. 20, 1950, ch. 94, title I, §§ 116, 122, 64 Stat. 57, 59; 1950 Reorg. Plan No. 22, eff. July 9, 1950, 15 F.R. 4365, 64 Stat. 1277; Sept. 1, 1951, ch. 378, title II, § 205, title VI, § 608(b), 65 Stat. 303, 315; Apr. 9, 1952, ch. 173, 66 Stat. 51; July 14, 1952, ch. 723, §§ 3(a), 10(a), (2), 66 Stat. 602, 603; June 30, 1953, ch. 170, §§ 12, 13(a), 67 Stat. 125; June 29, 1954, ch. 410, § 1(1), 68 Stat. 320; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 612; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 802(b), 82 Stat. 536.)

AMENDMENTS

1968—Pub. L. 90-448 eliminated provisions which established in the Federal Government a secondary market facility for home mortgages in view of section 1716b of this title which created two separate and distinct corporations.

1954—Act Aug. 2, 1954, amended section generally, substituting entirely new provisions for provisions now covered by section 1717 of this title and other sections in this subchapter.

Subsec. (a)(1)(G). Act June 29, 1954, substituted in first sentence "August 1, 1954" for "July 1, 1954".

1953—Subsec. (a)(1)(E). Act June 30, 1953, § 12, in clause (2), substituted "principal amount to be paid therefor" for "unpaid principal balance thereof", and "aggregate principal amount" for "aggregate amount"; and substituted the three provisos for former proviso which made such clause (2) and any terms therein inapplicable to any defense or disaster mortgages as defined in subpar. (G) of par. (1).

Subsec. (a)(1)(G). Act June 30, 1953, § 13(a), substituted in first sentence "July 1, 1954" for "July 1, 1953".

1952—Subsec. (a)(1). Act July 14, 1952, § 3(a)(1), authorized the FNMA to purchase Government-insured or guaranteed home mortgages other than defense or disaster mortgages if they are insured after Feb. 29, 1952.

Subsec. (a)(1)(E). Act July 14, 1952, § 3(a)(2), (3), changed the base date from Apr. 30, 1948 to Feb. 29, 1952, and exempted defense or disaster mortgages from the limitation of this subparagraph.

Subsec. (a)(1)(G). Act July 14, 1952, § 3(a)(4), increased the FNMA commitment powers from $252,000,000 to $1,152,000,000 outstanding at any one time if the commitments relate to defense or disaster mortgages.

S.J. Res. Apr. 9, 1952, increased the $200,000,000 authorization to $252,000,000 and eliminated the Dec. 31, 1951, deadline, (1) with respect to programed defense housing for which applications were received prior to Dec. 28, 1951, and (2) with respect to subchapter VIII military housing if the commitment to insure the mortgage was issued after Dec. 27 and before Dec. 31, 1951.

Subsec. (c)(4). Act July 14, 1952, inserted "Guam," after "District of Columbia".

1951—Subsec. (a)(1). Act Sept. 1, 1951, § 205, inserted a reference to subchapter X of this chapter.

Subsec. (a)(1)(G). Act Sept. 1, 1951, § 608(b), added the proviso.

1950—Subsec. (a)(1). Act Apr. 20, 1950, § 116(1), (2), inserted "or section 1706c of this title", and the first proviso.

Subsec. (a)(1)(E). Act Apr. 20, 1950, § 116(3), substituted a new proviso for former one.

Subsec. (a)(1)(F). Act Apr. 20, 1950, § 116(4), substituted provision that no loan made to finance the purchase price or construction cost of a dwelling was to be purchased by the Federal National Mortgage Association unless the Administrator of Veterans' Affairs certifies that such dwelling conforms with minimum construction requirements prescribed by the Administrator for former provision that such certification was to be given by the mortgagee and that minimum construction standards were to be determined by the provisions within the National Housing Act.

Subsec. (a)(1)(G). Act Apr. 20, 1950, § 116(5), added subsec. (a)(1)(G).

1949—Subsec. (a). Act Aug. 8, 1949, inserted ", or subchapter VIII of this chapter" following subchapter VI and VII in par. (1), and added proviso at end of par. (1)(E).

Subsec. (a)(1)(E). Joint Res. Oct. 25, 1949, struck out proviso and inserted new proviso.

1948—Act July 1, 1948, amended section generally to create a Federal National Mortgage Association with power to purchase, service, or sell insured or guaranteed mortgage, provide for the powers and succession of the Association, and to eliminate the former national mortgage association.

Subsec. (a)(1). Act Aug. 10, 1948, §§ 201, 202, substituted "subchapter II or VI of this chapter" for "section 1709 or 1738 of this title", inserted "after April 30, 1948", following "or guaranteed", and substituted "50" for "25" in clause (2) of par. (1)(E).

1941—Subsec. (a)(2). Act Mar. 28, 1941, substituted "subchapters II and VI" for "subchapter II".

1939—Subsec. (b). Act June 3, 1939, amended last sentence.

Subsec. (c)(4). Act June 3, 1939, inserted "Alaska, Hawaii or Puerto Rico".

1938—Subsec. (a). Act Feb. 3, 1938, amended provisions generally, and among other changes, substituted "60 per centum" in subsec. (a)(3), for "80 per centum".

Subsec. (d). Act Feb. 3, 1938, substituted "$2,000,000" for "$5,000,000," and "that at least 25 per centum thereof has been paid in cash," for "paid in full in cash", and added thereto "or in first mortgages or such other first liens as are described in section 301 (a) hereof, which mortgages or liens shall be taken at such value as the Administrator may determine, not exceeding (except as to mortgages insured under title II of this Act) 60 per centum of the appraised value of the property as of the date of subscription, and that the remainder of the subscription to such capital stock is payable in the same manner and at such time as may be determined by the Administrator: *Provided*, That no association shall issue notes, bonds, debentures, or other such obligations until such time as such subscriptions are paid in full in cash or Govern-

ment securities at their par value or in mortgages or other liens as hereinbefore set forth".

1935—Subsec. (d). Act May 28, 1935, substituted "$5,000,000" for "$2,000,000".

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90–448, see section 808 of Pub. L. 90–448, set out as a note under section 1716b of this title.

EFFECTIVE DATE OF 1949 AMENDMENT

Section 7 of Joint Res. Oct. 25, 1949, provided in part: "That the amendment made by this section 7 with respect to mortgages guaranteed under section 501 of the Servicemen's Readjustment Act of 1944, as amended [this section], shall apply only to such mortgages guaranteed after the date of enactment of this Act [Oct. 25, 1949]."

SEPARABILITY OF PROVISIONS

Separability of act Mar. 28, 1941, see Separability of Provisions note under section 1736 of this title.

TRANSFER OF FUNCTIONS

In subsec (b) "Housing and Home Finance Agency" was substituted for "Reconstruction Finance Corporation," "Housing and Home Finance Administrator" for "Chairman of the Board of Directors of the Reconstruction Finance Corporation, or the Acting Chairman in the case of a vacancy in the office of the Chairman," and references to the officers and employees of the Housing and Home Finance Agency for references to the Directors, officers or employees of the RFC, and in subsec. (d) "Housing and Home Finance Administrator" was substituted for "Reconstruction Finance Corporation" by Reorg. Plan No. 22 of 1950, set out under section 1717 of this title.

The Federal Loan Agency which was established by Reorg. Plan No. I of 1939, § 402, set out in the Appendix to Title 5, Government Organization and Employees, and continued as an independent establishment of the Government by act Feb. 24, 1945, ch. 4, 59 Stat. 5, was abolished by section 204 of act June 30, 1947, ch. 166, title II, 61 Stat. 208, and its property and records were transferred to the Reconstruction Finance Corporation.

In subsecs. (a) and (c) "Administrator" was changed to "Commissioner" by section 122 of act Apr. 20, 1950, and then to "Housing and Home Finance Administrator" by Reorg. Plan No. 22 of 1950, set out under section 1717 of this title.

Federal National Mortgage Association to be administered by Federal Loan Administrator within Federal Loan Agency, see Reorg. Plan No. I of 1939, § 402, eff. July 1, 1939, 4 F.R. 2730, 53 Stat. 1429, set out in the Appendix to title 5.

DELEGATION OF FUNCTIONS

Functions of the President under this section delegated to the Secretary of Housing and Urban Development, see Ex. Ord. No. 11732, July 30, 1973, 38 F.R. 20429, set out as a note under section 301 of Title 3, The President.

SERVICE OR SALE OF MORTGAGES PURCHASED PRIOR TO JULY 1, 1948; FULFILLMENT OF PRIOR COMMITMENTS

Section 2 of act July 1, 1948, provided that: "Nothing in the amendment made by the first section of this Act [amending sections 1716, 1717 to 1721 of this title] shall limit the authority of the Federal National Mortgage Association to service or sell any mortgage purchased prior to the date of the enactment of this Act [July 1, 1948], or to purchase, service, or sell any mortgage with respect to which a commitment to purchase was made prior to the date of the enactment of this Act [July 1, 1948]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1717, 1719, 1720, 1721 of this title; title 42 section 1591a.

§§ 1716–1, 1716a. Repealed. Aug. 2, 1954, ch. 649, title II, § 206, 68 Stat. 622

Section 1716–1, acts Oct. 30, 1951, ch. 642, 65 Stat. 599; June 30, 1953, ch. 170, § 14, 67 Stat. 125, related to special authority of the Federal National Mortgage Association to make advance commitments, under certain conditions, with respect to insured cooperative-housing mortgages under section 1715e of this title.

Section 1716a, act Sept. 1, 1951, ch. 378, title VI, § 608(a), 65 Stat. 315, required that one of the persons constituting the Board of Directors of the Federal National Mortgage Association be appointed by the Administrator of Veterans' Affairs from among personnel of the Veterans' Administration.

§ 1716b. Partition of Federal National Mortgage Association into Federal National Mortgage Association and Government National Mortgage Association; assets and liabilities; operations

The purposes of this title include the partition of the Federal National Mortgage Association as heretofore existing into two separate and distinct corporations, each of which shall have continuity and corporate succession as a separated portion of the previously existing corporation. One of such corporations, to be known as Federal National Mortgage Association, will be a Government-sponsored private corporation, will retain the assets and liabilities of the previously existing corporation accounted for under section 1719 of this title, and will continue to operate the secondary market operations authorized by such section 1719. The other, to be known as Government National Mortgage Association, will remain in the Government, will retain the assets and liabilities of the previously existing corporation accounted for under sections 1720 and 1721 of this title, and will continue to operate the special assistance functions and management and liquidating functions authorized by such sections 1720 and 1721.

(Pub. L. 90–448, title VIII, § 801, Aug. 1, 1968, 82 Stat. 536.)

REFERENCES IN TEXT

"This title", referred to in text, means Title VIII of Pub. L. 90–448, which enacted this section, amended sections 24, 378, 1431, 1436, 1464, 1716, 1717 to 1723a, 1723c and 1757 of this title, section 709 of Title 18, Crimes and Criminal Procedure, section 846 of Title 31, Money and Finance, section 1820 of Title 38, Veterans' Benefits, section 612 of Title 40, Public Buildings, Property, and Works, and sections 1452b, 3534 and 3535 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under this section and section 1721 of this title.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1968, and not as part of the National Housing Act which comprises this chapter.

EFFECTIVE DATE

Section 808 of Pub. L. 90–448 provided that: "The amendments made by this title [enacting this section and amending sections 24, 378, 1431, 1436, 1464, 1716, 1717 to 1723a, 1723c and 1757 of this title, section 709 of Title 18, Crimes and Criminal Procedure, section 846 of Title 31, Money and Finance, section 1820 of Title 38, Veterans' Benefits, section 612 of Title 40, Public Buildings, Property, and Works, sections 1452b, 3534 and 3535 of Title 42, The Public Health and Welfare, and notes under this section and section 1721 of

this title] shall be effective from and after a date, no more than one hundred and twenty days following the date of enactment of this Act [Aug. 1, 1968], as established by the Secretary of Housing and Urban Development. Notice of the establishment of such effective date shall be published in the Federal Register at least thirty days prior thereto."

SAVINGS PROVISIONS

Section 809 of Pub. L. 90-448 provided that:

"(a) No cause of action by or against the Federal National Mortgage Association existing prior to the effective date established pursuant to section 808 [set out as a note under this section] shall abate by reason of the enactment of this title. Any such cause of action may thereafter be asserted by or against the appropriate corporate body named in section 302(a)(2) of the National Housing Act [section 1717(a)(2) of this title].

"(b) No suit, action, or other proceeding commenced by or against the Federal National Mortgage Association, or any officer thereof in his official capacity, prior to the effective date established pursuant to section 808 shall abate by reason of the enactment of this title. A court may at any time thereafter during the pendency of any such litigation, on its own motion or that of any party, order that the litigation may be maintained by or against the appropriate corporate body named in section 302(a)(2) of the National Housing Act [section 1717(a)(2) of this title] or the appropriate corresponding officer thereof."

TRANSITIONAL PROVISIONS

Section 810 of Pub. L. 90-448, as amended by Pub. L. 91-609, title IX, § 901(e), Dec. 31, 1970, 84 Stat. 1807; Pub. L. 93-383, title VIII, § 806(*l*), Aug. 22, 1974, 88 Stat. 728, provided that:

"(a) On the effective date established pursuant to section 808 of this Act [set out as a note under this section], each share of outstanding nonvoting common stock, with a par value of $100 per share, of the Federal National Mortgage Association shall be changed into and shall become one share of voting common stock, without par value, of such corporation. For the purposes of the Internal Revenue Code of 1954 [Title 26], no gain or loss is recognized by the holders of such stock on such change, and the basis and holding period of such stock in the hands of the stockholders immediately after such change are the same as the basis and holding period of such stock in their hands immediately prior to such change.

"(b), (c). [Repealed. Pub. L. 93-383, title VIII, § 806(*l*), Aug. 22, 1974, 88 Stat. 728].

"(d) Those persons who are the officers and employees of the Federal National Mortgage Association immediately prior to the effective date established pursuant to section 808 [set out as a note under this section] shall become the officers and employees of the Government National Mortgage Association on such date. The Federal National Mortgage Association and the Government National Mortgage Association shall provide by contract for the conditions and methods under which and by which the Federal National Mortgage Association during the transitional period may employ those individuals who are employees of the Government National Mortgage Association on such effective date; and may provide by contract for the operation by either of such corporations of any of the functions of the other. The Secretary of Housing and Urban Development shall make every reasonable effort to place in other comparable Federal positions any individuals who are career or career-conditional employees of the Government National Mortgage Association on such effective date and who are subsequently during the transitional period neither employed by the Federal National Mortgage Association nor retained by the Government National Mortgage Association."

§ 1717. Federal National Mortgage Association and Government National Mortgage Association

(a) Creation; succession; principal and other offices

(1) There is created a body corporate to be known as the "Federal National Mortgage Association", which shall be in the Department of Housing and Urban Development. The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Agencies or offices may be established by the Association in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(2) On September 1, 1968, the body corporate described in the foregoing paragraph shall cease to exist in that form and is hereby partitioned into two separate and distinct bodies corporate, each of which shall have continuity and corporate succession as a separated portion of the previously existing body corporate, as follows:

(A) One of such separated portions shall be a body corporate without capital stock to be known as Government National Mortgage Association (hereinafter referred to as the "Association"), which shall be in the Department of Housing and Urban Development and which shall retain the assets and liabilities acquired and incurred under sections 1720 and 1721 of this title prior to such date, including any and all liabilities incurred pursuant to subsection (c) of this section. The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Agencies or offices may be established by the Association in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(B) The other such separated portion shall be a body corporate to be known as Federal National Mortgage Association (hereinafter referred to as the "corporation"), which shall retain the assets and liabilities acquired and incurred under sections 1718 and 1719 of this title prior to such date. The corporation shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia or the metropolitan area thereof and shall be deemed, for purposes of jurisdiction and venue in civil actions, to be a District of Columbia corporation.

(3) The partition transaction effected pursuant to the foregoing paragraph constitutes a reorganization within the meaning of section 368(a)(1)(E) of title 26; and for the purposes of such title 26, no gain or loss is recognized by the previously existing body corporate by reason of the partition, and the basis and holding period of the assets of the corporation immediately following such partition are the same as the basis and holding period of such assets immediately prior to such partition.

(b) Purchase and sale of insured mortgages; purchase and sale of conventional mortgages

(1) For the purposes set forth in section 1716 of this title and subject to the limitations and restrictions of this subchapter, each of the bodies corporate named in subsection (a)(2) of this section is authorized pursuant to commitments or otherwise, to purchase, service, sell, or otherwise deal in any mortgages which are insured under this chapter or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], or which are insured or guaranteed under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38; and to purchase, service, sell, or otherwise deal in any loans made or guaranteed under part B of title VI of the Public Health Service Act [42 U.S.C. 291j-1 et seq.]; and the corporation is authorized to lend on the security of any such mortgages and to purchase, sell, or otherwise deal in any securities guaranteed by the Association under section 1721(g) of this title: *Provided*, That (1) the Association may not purchase any mortgage at a price exceeding 100 per centum of the unpaid principal amount thereof at the time of purchase, with adjustments for interest and any comparable items; (2) the Association may not purchase any mortgage, except a mortgage insured under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], if it is offered by, or covers property held by, a State, territorial, or municipal instrumentality; and (3) the Association may not purchase any mortgage under section 1720 of this title, except a mortgage insured under section 1715k of this title or subchapter VIII of this chapter, or under subchapter IX-A of this chapter with respect to a new community approved under section 1749cc-1 of this title, or insured under section 1715e of this title and covering property located in an urban renewal area, or a mortgage covering property located in Alaska, Guam, or Hawaii, if the original principal obligation thereof exceeds or exceeded $33,000 (or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require) for each family residence or dwelling unit covered by the mortgage (plus an additional $2,500 for each such family residence or dwelling unit which has four or more bedrooms). Notwithstanding the provisions of clause (3) in the preceding sentence, the Association may purchase a mortgage under section 1720 of this title with an original principal obligation that exceeds the otherwise applicable maximum amount per dwelling unit if the mortgage (1) is insured under section 1715z-1 of this title or is a below-market interest rate mortgage insured under section 1715*l*(d)(3) of this title, and (2) covers property which has the benefit of local tax abatement in an amount determined by the Secretary of Housing and Urban Development to be sufficient to make possible rentals not in excess of those that would be approved by the Secretary if the mortgage amount did not exceed the otherwise applicable maximum amount per dwelling unit and if local tax abatement were not provided. For the purposes of this subchapter, the terms "mortgages" and "home mortgages" shall be inclusive of any mortgages or other loans insured under any of the provisions of this chapter or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.].

(2) For the purposes set forth in section 1716(a) of this title, and with the approval of the Secretary of Housing and Urban Development, the corporation is authorized, pursuant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in mortgages which are not insured or guaranteed as provided in paragraph (1) (such mortgages referred to hereinafter as "conventional mortgages"). No such purchase of a conventional mortgage shall be made if the outstanding principal balance of the mortgage at the time of purchase exceeds 80 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 80 per centum is guaranteed or insured by a qualified insurer as determined by the corporation. The corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation which were originated more than one year prior to the date of purchase does not exceed 20 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation. The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it, but such limitations shall not exceed the limitations contained in the first proviso of the first sentence of section 1464(c) of this title.

(c) Administration of trusts; obligations of departments and agencies of the United States; exemption of interest income from taxation; authorization of appropriations for differential reimbursements

(1) Notwithstanding any other provision of this chapter or of any other law, the Association is authorized under section 1721 of this title to create, accept, execute, and otherwise administer in all respects such trusts, receiverships, conservatorships, liquidating or other agencies, or other fiduciary and representative undertakings and activities, hereinafter in this subsection called "trusts", as might be appropriate for financing purposes; and in relation thereto the Association may acquire, hold and manage, dispose of, and otherwise deal in any mortgages or other types of obligations in which any department or agency of the United States listed in paragraph (2) of this subsection

may have a financial interest. The Association may join in any such undertakings and activities, hereinafter in this subsection called "trusts"; notwithstanding that it is also serving in a fiduciary or representative capacity; and is authorized to guarantee any participations or other instruments, whether evidence of property rights or debt, issued for such financing purposes. Participations or other instruments issued by the Association pursuant to this subsection shall to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The amounts of any mortgages and their obligations acquired by the Association under section 1721 of this title, pursuant to this subsection, shall not be included in the total amounts set forth in section 1721(c) of this title.

(2) Subject to the limitations provided in paragraph (4) of this subsection, one or more trusts may be established as provided in this subsection by each of the following departments or agencies:

(A) The Farmers Home Administration of the Department of Agriculture, but only with respect to operating loans, direct farm ownership loans, direct housing loans, and direct soil and water loans. Such trusts may not be established with respect to loans for housing for the elderly under sections 502 and 515(a) of the Housing Act of 1949 [42 U.S.C. 1472 and 1485(a)], nor with respect to loans for nonfarm recreational development.

(B) The Department of Health, Education, and Welfare, but only with respect to loans made by the Commissioner of Education for construction of academic facilities, and loans to help finance student loan programs.

(C) The Department of Housing and Urban Development.

(D) The Veterans' Administration.

(E) The Export-Import Bank.

(F) The Small Business Administration.

The head of each such department or agency, hereinafter in this subsection called the "trustor," is authorized to set aside a part or all of any obligations held by him and subject them to a trust or trusts and, incident thereto, shall guarantee to the trustee timely payment thereof. The trust instrument may provide for the issuance and sale of beneficial interests or participations, by the trustee, in such obligations or in the right to receive interest and principal collections therefrom; and may provide for the substitution or withdrawal of such obligations, or for the substitution of cash for obligations. The trust or trusts shall be exempt from all taxation. The trust instrument may also contain other appropriate provisions in keeping with the purposes of this subsection. The Association shall be named and shall act as trustee of any such trusts and, for the purposes thereof, the title to such obligations shall be deemed to have passed to the Association in trust. The trust instrument shall provide that custody, control, and administration of the obligations shall remain in the trustor subjecting the obligations to the trust, subject to transfer to the trustee in event of default or probable default, as determined by the trustee, in the payment of principal and interest of the beneficial interests or participations. Collections from obligations subject to the trust shall be dealt with as provided in the instrument creating the trust. The trust instrument shall provide that the trustee will promptly pay to the trustor the full net proceeds of any sale of beneficial interests or participations to the extent they are based upon such obligations or collections. Such proceeds shall be dealt with as otherwise provided by law for sales or repayment of such obligations. The effect of both past and future sales of any issue of beneficial interests or participations shall be the same, to the extent of the principal of such issue, as the direct sale with recourse of the obligations subject to the trust. Any trustor creating a trust or trusts hereunder is authorized to purchase, through the facilities of the trustee, outstanding beneficial interests or participations to the extent of the amount of his responsibility to the trustee on beneficial interests or participations outstanding, and to pay his proper share of the costs and expenses incurred by the Association as trustee pursuant to the trust instrument.

(3) When any trustor guarantees to the trustee the timely payment of obligations he subjects to a trust pursuant to this subsection, and it becomes necessary for such trustor to meet his responsibilities under such guaranty, he is authorized to fulfill such guaranty.

(4) Beneficial interests or participations shall not be issued for the account of any trustor in an aggregate principal amount greater than is authorized with respect to such trustor in an appropriation Act. Any such authorization shall remain available only for the fiscal year for which it is granted and for the succeeding fiscal year.

(5) The Association, as trustee, is authorized to issue and sell beneficial interests or participations under this subsection, notwithstanding that there may be an insufficiency in aggregate receipts from obligations subject to the related trust to provide for the payment by the trustee (on a timely basis out of current receipts or otherwise) of all interest or principal on such interests or participations (after provision for all costs and expenses incurred by the trustee, fairly prorated among trustors). There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable any trustor to pay the trustee such insufficiency as the trustee may require on account of outstanding beneficial interests or participations authorized to be issued pursuant to paragraph (4) of this subsection. Such trustor shall make timely payments to the trustee from such appropriations, subject to and in accord with the trust instrument. In the event that the insufficiency required by the trustee is on account of principal maturities of outstanding beneficial interests or participations authorized to be issued pursuant to paragraph (4) of this subsection, or pursuant hereto, the trustee is authorized to elect to issue additional beneficial interests or participations for refinancing purposes in lieu of requiring any trustor or trustors to make payments to the trustee from appropriated funds or other sources. Each such issue of beneficial interests or participations shall be in

an amount determined by the trustee but not in excess of the aggregate amount which the trustee would otherwise require the trustor or trustors to pay from appropriated funds or other sources, and may be issued without regard to the provisions of paragraph (4) of this subsection. All refinancing issues of beneficial interests or participations shall be deemed to have been issued pursuant to the authority contained in the appropriation Act or Acts under which the beneficial interests or participations were originally issued.

(June 27, 1934, ch. 847, title III, § 302, 48 Stat. 1254; May 28, 1935, ch. 150, § 31, 49 Stat. 300; Feb. 3, 1938, ch. 13, § 6, 52 Stat. 24; Mar. 28, 1941, ch. 31, § 6, 55 Stat. 62; July 1, 1948, ch. 784, § 1, 62 Stat. 1208; July 19, 1949, ch. 351, § 1, 63 Stat. 446; Oct. 25, 1949, ch. 729, § 1(3), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, § 117, 64 Stat. 57; July 14, 1952, ch. 723, § 3(b), 66 Stat. 602; June 30, 1953, ch. 170, § 13(b), 67 Stat. 125; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 613; Aug. 7, 1956, ch. 1029, title II, § 201, 70 Stat. 1096; Sept. 2, 1958, Pub. L. 85-857, § 13(g), 72 Stat. 1265; Sept. 23, 1959, Pub. L. 86-372, title III, § 301, 73 Stat. 669; June 30, 1961, Pub. L. 87-70, title I, § 102(c), title VI, §§ 602, 603(a), 75 Stat. 158, 176; Sept. 2, 1964, Pub. L. 88-560, title VII, §§ 701(a), 702, 78 Stat. 800, 802; Aug. 10, 1965, Pub. L. 89-117, title I, § 102(d), title II, § 201(b)(1), title VIII, §§ 802(a), 803, 804, title X, § 1004(a), 79 Stat. 454, 465, 493, 494, 501; May 24, 1966, Pub. L. 89-429, § 2, 80 Stat. 164; Nov. 3, 1966, Pub. L. 89-751, § 7, 80 Stat. 1236; Nov. 3, 1966, Pub. L. 89-754, title IV, § 405, 80 Stat. 1273; May 25, 1967, Pub. L. 90-19, § 1(a)(2), (3), (j)(1), 81 Stat. 17, 18; Aug. 1, 1968, Pub. L. 90-448, title VIII, §§ 802(c)-(g), 803, 82 Stat. 536, 537, 542; Dec. 24, 1969, Pub. L. 91-152, title I, § 114, 83 Stat. 385; June 30, 1970, Pub. L. 91-296, title II, § 202, 84 Stat. 350; July 24, 1970, Pub. L. 91-351, title II, § 201(a), title IV, § 402, 84 Stat. 450, 458; Dec. 31, 1970, Pub. L. 91-609, title IX, § 901(d), 84 Stat. 1807; Aug. 22, 1974, Pub. L. 93-383, title VIII, §§ 806(a)-(f), 807, 88 Stat. 727, 728; Dec. 26, 1974, Pub. L. 93-541, § 2, 88 Stat. 1739.)

REFERENCES IN TEXT

Title V of the Housing Act of 1949, referred to in subsec. (b), is title V of act July 15, 1949, ch. 338, 63 Stat. 432, as amended, and is classified to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare.

The Servicemen's Readjustment Act of 1944, as amended, referred to in subsec. (b), was act June 22, 1944, ch. 268, 58 Stat. 284, which was repealed by Pub. L. 85-857, § 14(87), and is now covered by chapter 37 (§ 1801 et seq.) of Title 38, Veterans' Benefits.

Part B of title VI of the Public Health Service Act, referred to in subsec. (b), is classified to part B (§ 291j-1 et seq.) of subchapter IV of chapter 6A of Title 42, The Public Health and Welfare.

AMENDMENTS

1974—Subsec. (a)(2). Pub. L. 93-383, § 806(a)(1), substituted "September 1, 1968" for "the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968".

Subsec. (a)(2)(A). Pub. L. 93-383, § 806(a)(2), struck out "effective" preceding "date".

Subsec. (a)(2)(B). Pub. L. 93-383, § 806(a)(2), (b), struck out "effective" preceding "date", added "or metropolitan area thereof" preceding "and shall" and "jurisdiction" preceding "venue", and substituted "District of Columbia corporation" for "resident thereof".

Subsec. (b)(1). Pub. L. 93-541 substituted "or guaranteed under part B of title VI of the Public Health Service Act" for "to a public agency under part B of title VI of the Public Health Service Act".

Pub. L. 93-383, § 807, substituted "$33,000 (or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require)" for "$22,000".

Subsec. (b)(2). Pub. L. 93-383, § 806(c)-(f), substituted "80" for "75" and "exceed 20" for "exceed 10", struck out "private" preceding "insurer" in cl. (C), and substituted provisions relating to limitations contained in the first proviso of the first sentence of section 1464(c) of this title, for provisions relating to limitations applicable to mortgages insured under sections 1709(b) or 1713 of this title.

1970—Subsec. (a)(3). Pub. L. 91-609 added par. (3).

Subsec. (b). Pub. L. 91-296 added provisions authorizing the purchase, service, sale, or other dealing in loans made to a public agency under part B of title VI of the Public Health Service Act.

Subsec. (b)(1). Pub. L. 91-351, §§ 201(a)(1), 402, designated the existing provisions as subsec. (b) (1), and, as so designated, added "is insured under section 1715z-1 of this title or" preceding "is a below-market interest rate mortgage insured under section 1715l(d)(3) of this title".

Subsec. (b)(2). Pub. L. 91-351, § 201(a)(2), added subsec. (b)(2).

1969—Subsec. (b). Pub. L. 91-152 substituted "$22,000" or "the otherwise applicable maximum amount" for "$17,500" wherever appearing therein.

1968—Subsec. (a)(1). Pub. L. 90-448, § 802(c)(1), (2), designated existing provisions as par. (1), and eliminated therefrom the parenthetical phrase "(hereinafter referred to as the 'Association')".

Subsec. (a)(2), Pub. L. 90-448, § 802(c)(3), added subsec. (a)(2).

Subsec. (b). Pub. L. 90-448, § 802(d), substituted "each of the bodies corporate named in subsection (a) (2) of this section is authorized" for "the Association is authorized", and inserted provisions empowering the corporation to purchase, sell, or otherwise deal in any securities guaranteed by the Association under section 1721(g) of this title.

Subsec. (c)(1). Pub. L. 90-448, § 802(e), eliminated words ", consistent with section 1722 of this title," which preceded "to guarantee any participations".

Subsec. (c)(2). Pub. L. 90-448, § 802(f), (g), eliminated provisions from par. (C), which prohibited the Department of Housing and Urban Development from exercising the authority with respect to secondary market operations of the Federal National Mortgage Association, and in the last sentence substituted "incurred by the Association" for "incurred by the Federal National Mortgage Association".

Subsec. (c)(5). Pub. L. 90-448, § 803, inserted provisions authorizing the trustee, in the event that the insufficiency required by the trustee is on account of principal maturities of outstanding beneficial interests or participations to be issued pursuant to paragraph (4) of this subsection, or pursuant hereto, to elect to issue additional beneficial interests or participations for refinancing purposes in lieu of requiring any trustor or trustors to make payments to the trustee from appropriated funds or other sources, limiting each such issue of beneficial interests or participations, and directing that all refinancing issues be deemed to have been issued pursuant to the authority contained in the appropriation Act or Acts under which the beneficial interests or participations were originally issued.

1967—Subsec. (a). Pub. L. 90-19, § 1(j)(1), substituted "in the Department of Housing and Urban Development" for "a constituent agency of the Housing and Home Finance Agency".

Subsec. (b). Pub. L. 90-19, § 1(a)(2), (3), substituted "Secretary of Housing and Urban Development" and

"Secretary" for "Federal Housing Commissioner" and "Commissioner", respectively.

1966—Subsec. (b). Pub. L. 89-754 inserted "or under subchapter IX-A of this chapter with respect to a new community approved under section 1749cc-1 of this title".

Subsec. (c). Pub. L. 89-429 denominated existing provisions as par. (1), and, in par. (1) as so denominated, gave the name "trusts", for the purpose of the entire subsection, to trusts, receiverships, conservatorships, liquidating or other agencies, or other fiduciary and representative undertakings which the Association is authorized to administer, expanded the types of securities in which the Association is authorized to deal so as to include an expanded array of obligations in which any department or agency of the United States listed in par. (2) of the subsection might have a financial interest, exempted participation certificates or other instruments issued pursuant to this subsection from all regulation by the Securities and Exchange Commission, repealed existing authority for issuance of participations based on below-market interest rate mortgages insured under section 1715*l*(d)(3) of this title, and added pars. (2) to (5).

Subsec. (c)(2)(B). Pub. L. 89-751 substituted "The Department of Health, Education, and Welfare, but only with respect to loans made by the Commissioner of Education for construction of academic facilities, and loans to help finance student loan programs" for "The Office of Education of the Department of Health, Education, and Welfare, but only with respect to loans for construction of academic facilities".

1965—Subsec. (b). Pub. L. 89-117, §§ 201(b)(1), 802(a)(1), 803, 804, and 1004(a), defined "home mortgages", removed mortgages offered by or covering property held by a federal instrumentality from the list of prohibited purchases, added parenthetical material which, in the case of family dwelling units having four or more bedrooms, placed an additional amount of $2,500 to the $17,500 per unit limit on purchasable mortgages, added provision excepting below-market mortgages from the $17,500 per unit limit on purchasable mortgages if local tax abatement were granted sufficient to keep rentals at the level where they would be if the mortgage amount did not exceed $17,500 per dwelling unit, and authorized the Association to purchase loans insured under subchapter III of chapter 8A of Title 42 in its secondary market operations.

Subsec. (c). Pub. L. 89-117, §§ 102(d), 802(a)(2), (3) authorized appropriations to reimburse the Association for differential amounts resulting when mortgages bearing a below-market interest rate and insured under section 1715*l*(d)(3) of this title after August 10, 1965, are included within one or more of the trusts or other agencies created under this section authorized the Association to deal, in addition to first mortgages, in obligations offered to it by the Housing and Home Finance Agency or its Administrator, or by such Agency's constituent units or agencies or the heads thereof, and inserted "and other obligations" after "mortgages" in the last sentence.

1964—Subsec. (b). Pub. L. 88-560, § 702, substituted "any mortgage under section 1720 of this title" for "any mortgage" and deleted the proviso reading "Provided, That with respect to mortgages purchased under section 1719 of this title the principal obligation shall not exceed $20,000".

Subsec. (c). Pub. L. 88-560, § 701(a), added subsec. (c).

1961—Subsec. (b). Pub. L. 87-70 substituted "authorized, pursuant to commitments or otherwise, to purchase, lend (under section 1719 of this title) on the security of, service, sell, or otherwise deal in any mortgages which are insured" for "authorized to make commitments to purchase and to purchase, service, or sell, any residential or home mortgages (or participations therein) which are insured", and "section 1715k of this title or subchapter VIII of this chapter for "section 1715k or 1748b of this title", permitted the purchase of mortgages insured under section 1715e of this title and covering property located in an urban renewal area, and defined the term "mortgage".

1959—Subsec. (b). Pub. L. 86-372 included within cl. (3) mortgages insured under section 1715k of this title, increased the limitation on the original principal obligation from $15,000 to $17,500, and established a limitation of not more than $20,000 with respect to mortgages purchased under section 1719 of this title.

1958—Subsec. (b). Pub. L. 85-857 inserted ", chapter 37 of title 38" following "Servicemen's Readjustment Act of 1944, as amended".

1956—Subsec. (b). Act Aug. 7, 1956, substituted "(2)" for "and (2)", "if" for "if (i)"; and "(3) the Association may not purchase any mortgage, except a mortgage insured under section 1748b of this title or a mortgage covering property located in Alaska, Guam, or Hawaii, if" for "or (ii)".

1954—Act Aug. 2, 1954, amended section generally to recharter the Association, substituting provisions formerly covered in section 1716 of this title for provisions now covered by sections 1719 to 1721 of this title.

1953—Act June 30, 1953, struck out the proviso at end of first sentence, which limited purchase of mortgages other than defense or disaster mortgages to $2,750,000,000.

1952—Act July 14, 1952, increased purchasing power of the Association from $2,750,000,000 to $3,650,000,000 but limited purchases of mortgages other than defense or disaster mortgages to $2,750,000,000.

1950—Act Apr. 20, 1950, substituted "$2,750,000,000" for "$2,500,000,000".

1949—Joint Res. Oct. 25, 1949, substituted "$2,500,000,000" for "$1,500,000,000" in the first sentence.

Act July 19, 1949, increased the authorization to $1,500,000,000 which would be based on the outstanding amount of mortgage purchases and commitments in place of the former complicated formula.

1948—Act July 1, 1948, amended section generally to make it applicable to the Association instead of to the former national mortgage associations, and increased the borrowing capacity from twenty times to forty times the capital and surplus.

1941—Act Mar. 28, 1941, inserted "and VI" in cl. (2).

1938—Act Feb. 3, 1938, among other changes, substituted "twenty times the amount of its paid-up capital and surplus" for "twelve times the aggregate par value of its outstanding capital stock", and added last sentence and proviso.

1935—Act May 28, 1935, substituted "twelve times" for "ten times" in cl. (1).

Effective Date of 1968 Amendment

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

Effective Date of 1958 Amendment

For effective date of amendment by Pub. L. 85-857, see section 2 of Pub. L. 85-857, set out as a note preceding Part I of Title 38, Veterans' Benefits.

Separability of Provisions

Separability of act Mar. 28, 1941, see Separability of Provisions note under section 1736 of this title.

Transfer of Functions

For re-transfer of functions described in section 2 of Reorg. Plan No. 22 of 1950, set out below, from the Housing and Home Finance Administrator to the Federal National Mortgage Association, see section 1723d of this title, and for effect of transfers of functions on the former provisions of section 1716 of this title prior to the general amendment of that section by act Aug. 2, 1954 (which substituted entirely new provisions), see Transfer of Functions note under that section.

WAIVER OF CERTAIN LIMITATIONS APPLICABLE TO THE PURCHASE OF MORTGAGES BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION UNTIL OCTOBER 1, 1974

Pub. L. 92-213, § 3, Dec. 22, 1971, 85 Stat. 775, as amended by Pub. L. 92-335, § 6, July 1, 1972, 86 Stat. 405; Pub. L. 92-503, § 2, Oct. 18, 1972, 86 Stat. 906; Pub. L. 93-85, § 3, Aug. 10, 1973, 87 Stat. 221; Pub. L. 93-117, § 4, Oct. 2, 1973, 87 Stat. 422, provided that when the Secretary of Housing and Urban Development determined that such action was necessary to avoid excessive discounts on federally insured or guaranteed mortgages, the Government National Mortgage Association could, until Oct. 1, 1974, issue commitments to purchase mortgages with original principal obligations not more than 50 per centum in excess of the limitations imposed by clause (3) of the proviso to the first sentence of section 302(b) (1) of the National Housing Act [subsec. (b) (1) of this section], and it could purchase the mortgages so committed to be purchased.

EXCEPTION TO LIMITATION ON PRINCIPAL AMOUNT OF PARTICIPATIONS IN GOVERNMENT MORTGAGE LIQUIDATION TRUST AND SMALL BUSINESS ADMINISTRATION TRUST SOLD DURING FISCAL 1966

Section 9 of Pub. L. 89-429 provided that:

"The Federal National Mortgage Association is authorized during the fiscal year 1966 to sell—

"(1) additional participations in the Government Mortgage Liquidation Trust, and

"(2) participations in a trust to be established by the Small Business Administration,

each without regard to the provisions of paragraph (4) of section 302(c) of the Federal National Mortgage Association Charter Act [subsec. (c) (4) of this section]."

TRUST AGREEMENTS WITH ADMINISTRATOR OF VETERANS' AFFAIRS

Section 6(a) of Pub. L. 89-429 provided that: "Nothing in this Act [enacting section 1717a of this title and section 745 of Title 20, Education, amending this section and sections 1720(c), 1749(d), and 1757(7) of this title, section 1988(c) of Title 7, Agriculture, and section 743(c) of title 20, and enacting material set out as notes under this section] shall be construed to repeal or modify the provisions of section 1820(e) of title 38, United States Code, respecting the authority of the Administrator of Veterans' Affairs."

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, upon the issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. *c*16, and Hawaii was admitted into the Union on Aug. 21, 1959, upon the issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. *c*74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

REORGANIZATION PLAN NO. 22 OF 1950

Eff. July 9, 1950, 15 F.R. 4365, 64 Stat. 1277

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of Title 5, Government Organization and Employees].

FEDERAL NATIONAL MORTGAGE ASSOCIATION

SECTION 1. *Transfer of Association and its functions.*— The Federal National Mortgage Association, together with its functions, is hereby transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Agency and shall be administered subject to the direction and control of the Housing and Home Finance Administrator.

SEC. 2. *Transfers to the Housing Administrator.*— There are hereby transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Administrator—

(1) the notes of the Federal National Mortgage Association payable to the Reconstruction Finance Corporation;

(2) the capital stock of the Federal National Mortgage Association;

(3) the function of the Reconstruction Finance Corporation of making payments on its notes issued to the Secretary of the Treasury in an amount equal to (a) the unpaid principal of, and accrued interest on, the notes of the Federal National Mortgage Association transferred under (1) above, (b) any funds of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, (c) the book value of any office furniture and equipment of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, and (d) the par value of the capital stock of the Federal National Mortgage Association plus the amount of its surplus paid in by the Reconstruction Finance Corporation;

(4) the function of issuing notes or other obligations to the Secretary of the Treasury, which may be purchased by the Secretary, under section 7 of the Reconstruction Finance Corporation Act, as amended [section 606 of Title 15], in an amount not in excess of that necessary to finance at any one time the outstanding balances of the investments, loans, and purchases held by the Federal National Mortgage Association, taking into consideration other balance-sheet items;

(5) except as otherwise provided in this reorganization plan, all other functions of the Reconstruction Finance Corporation (including functions of the Board of Directors of such Corporation and functions of the Chairman of the Board of Directors of such Corporation) with respect to the Federal National Mortgage Association; and

(6) all functions of the Federal Housing Commissioner with respect to the Federal National Mortgage Association.

SEC. 3. *Board of directors and officers.*—Functions with respect to serving, including eligibility to serve, as members of the Board of Directors of the Federal National Mortgage Association and as officers of such Association are hereby transferred from the members of the Board of Directors of, and from the officers and employees of, the Reconstruction Finance Corporation to the officers and employees of the Housing and Home Finance Agency (including those of the constituent agencies of the Housing and Home Finance Agency.)

SEC. 4. *Performance of functions of Administrator.*— The Housing and Home Finance Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing and Home Finance Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

SEC. 5. *Transfer of records, property, personnel, and funds.*—There are hereby transferred with the functions transferred by this reorganization plan, respectively, all of the assets, liabilities, contracts, property, records, and unexpended balances of authorizations, allocations and other funds, available or to be made available, of the Federal National Mortgage Association, and so much of the assets, liabilities, contracts, property, records, personnel, and unexpended balances of authorizations, allocations, and other funds, available or to be made available, of the Reconstruction Finance Corporation and relating to functions transferred by the provisions of this reorganization plan, as the Director of the Bureau of the Budget shall determine to be necessary for the administration of such functions, excluding, however, (1) the members of the Board of Directors of the Federal National

Mortgage Association in office immediately prior to the taking effect of the provisions of this reorganization plan, and (2) the officers of the Association then in office. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

SEC. 6. *Effective date.*—The provisions of this reorganization plan shall take effect 60 days after they would take effect under section 6(a) of the Reorganization Act of 1949 in the absence of this section [Eff. date July 9, 1950, in operation Sept. 7, 1950].

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1717a, 1720, 1723, 1723a, 1723c of this title; title 20 sections 745, 1132c-3; title 26 section 895; title 31 section 757b-1; title 42 sections 291j-7, 294d, 295h-3d, 297f, 300q-2, 1480.

§ 1717a. Prohibition against sale of obligations by Federal departments and agencies after June 30, 1966, without compliance with requirements of section 1717(c) of this title or without approval by Secretary of Treasury; exemption

After June 30, 1966, no department or agency listed in section 1717(c)(2) of this title may sell any obligation held by it except as provided in section 1717(c) of this title, or as approved by the Secretary of the Treasury, except that this prohibition shall not apply to the Government National Mortgage Association.

(Pub. L. 89-429, § 6(b), May 24, 1966, 80 Stat. 167; Pub. L. 90-448, title VIII, § 807(g), Aug. 1, 1968, 82 Stat. 545.)

CODIFICATION

Section was enacted as a part of the Participation Sales Act of 1966, and not as a part of the National Housing Act, which comprises this chapter.

AMENDMENTS

1968—Pub. L. 90-448 substituted "the Government National Mortgage Association" for "secondary market operations carried on by the Federal National Mortgage Association".

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

§ 1718. Capitalization of Federal National Mortgage Association

(a) Common stock; transferability

The corporation shall have common stock, without par value, which shall be vested with all voting rights, each share being entitled to one vote with rights of cumulative voting at all elections of directors. The free transferability of the common stock at all times to any person, firm, corporation, or other entity shall not be restricted except that, as to the corporation, it shall be transferable only on the books of the corporation.

(b) Accumulation of surplus; fees and charges; transfer of surplus funds to reserves

The corporation may accumulate funds for its capital surplus account from private sources by requiring each mortgage seller to make payments of nonrefundable capital contributions, equal to not more than 2 per centum of the unpaid principal amounts of mortgages purchased or to be purchased by the corporation from such seller under section 1719 of this title, as determined from time to time by the corporation with the approval of the Secretary of Housing and Urban Development taking into consideration conditions in the mortgage market and the general economy; and by requiring each borrower to make such payments, equal to not more than one-half of 1 per centum of the amount lent by the corporation to such borrower under section 1719 of this title. In addition, the corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of its operations should be within its income derived from such operations and that such operations should be fully self-supporting. All earnings from the operations of the corporation shall annually be transferred to its general surplus account. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves. All dividends shall be charged against the general surplus account.

(c) Issuance of common stock for capital contributions; payment of dividends

The corporation shall issue from time to time, to each mortgage seller or borrower, its common stock evidencing any capital contributions (adjusted by reason of any payments into surplus required by the corporation) made by such seller or borrower pursuant to subsection (b) of this section. In addition to the shares of common stock issued under the foregoing sentence, the corporation may issue additional shares in return for appropriate payments into capital or capital and surplus. The corporation shall at all times require each servicer of its mortgages to own a minimum amount of common stock of the corporation, measured by its stated value. Such minimum amount shall not exceed 2 per centum, as determined from time to time by the corporation with the approval of the Secretary of Housing and Urban Development, of the aggregate outstanding principal balances of all mortgages of the corporation which have been purchased subsequent to September 1, 1968, and which are then serviced by such servicer for the corporation. Such dividends as may be declared by the board of directors in its discretion shall be paid by the corporation to the holders of its common stock, but in any one fiscal year the aggregate amount of cash dividends paid on account of any share of such stock shall not exceed any rate which may be determined from time to time by the Secretary of Housing and Urban Development to be a fair rate of return after consideration of the current earnings and capital condition of the corporation.

(d), (e) Repealed. Pub. L. 93-383, title VIII, § 806(i), Aug. 22, 1974, 88 Stat. 728

(f) Institutions eligible to make payments and receive stock

Notwithstanding any other provision of law, any institution, including a national bank or State member bank of the Federal Reserve System or any member of the Federal Deposit Insurance Corporation, trust company, or other banking organization, organized under any law

of the United States, including the laws relating to the District of Columbia, shall be authorized to make payments to the corporation of the nonrefundable capital contributions, to purchase additional shares of such stock, and referred to in subsection (b) of this section, to receive stock of the corporation evidencing such capital contributions, and to hold or dispose of such stock, subject to the provisions of this subchapter.

(June 27, 1934, ch. 847, title III, § 303, 48 Stat. 1254; Feb. 3, 1938, ch. 13, § 7, 52 Stat. 24; July 1, 1948, ch. 784, § 1, 62 Stat. 1206; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 613; Aug. 7, 1956, ch. 1029, title II, § 202, 70 Stat. 1096; Mar. 27, 1957, Pub. L. 85-10, § 1(a), (b), 71 Stat. 7; July 12, 1957, Pub. L. 85-104, title II, §§ 201, 202, 71 Stat. 298; June 30, 1961, Pub. L. 87-70, title VI, § 603(b), (c), 75 Stat. 176; Aug. 10, 1965, Pub. L. 89-117, title X, § 1004(b), 79 Stat. 501; Sept. 10, 1966, Pub. L. 89-566, § 2, 80 Stat. 738; May 25, 1967, Pub. L. 90-19, § 1(j)(2), (*l*), 81 Stat. 18; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 802 (i)-(n), (s), 82 Stat. 537, 538; Dec. 31, 1970, Pub. L. 91-609, title IX, § 902, 84 Stat. 1808; Aug. 22, 1974, Pub. L. 93-383, title VIII, § 806(g)-(i), 88 Stat. 727, 728.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383, § 806(g), struck out provisions relating to issuance, par value, retirement, etc., of nonvoting preferred stock.

Subsec. (c). Pub. L. 93-383, § 806(h), substituted provisions relating to purchases subsequent to Sept. 1, 1968, for provisions relating to purchases subsequent to the effective date established under section 808 of the Housing and Urban Development Act of 1968, and struck out provisions relating to retirement of all outstanding preferred stock.

Subsec. (d). Pub. L. 93-383, § 806(i), struck out subsec. (d) authorizing the issuance of preferred stock to the Secretary of the Treasury.

Subsec. (e). Pub. L. 93-383, § 806(i), struck out subsec. (e) relating to exchange of preferred stock delivered to the Secretary of the Treasury pursuant to former subsec. (d) of this section.

1970—Subsec. (b). Pub. L. 91-609 substituted "may accumulate" and "private sources" for "shall accumulate" and "private and other sources", struck out "nor less than 1 per centum" following "2 per centum", and inserted "with the approval of the Secretary of Housing and Urban Development" following "as determined from time to time by the corporation".

1968—Subsec. (a). Pub. L. 90-448, § 802(i), (s)(1), changed common stock of the Association from nonvoting common stock with a par value of $100 to common stock, without par value, vested with all voting rights and each share entitled to one vote with rights of cumulative voting at all elections of directors, provided that the free transferability of the common stock shall not be restricted except that, as to the corporation, it shall be transferable only on the books of the corporation, eliminated provisions which permitted retirement of the preferred stock only out of funds of the capital surplus and the general surplus accounts of the Association, and which prohibited retirements of common stock if, as a consequence, the amount thereof remaining outstanding would be less than $100,000,000, and substituted provisions requiring retirement of preferred stock to be made as rapidly as possible subsequent to the effective date of section 808 of the Housing and Urban Development Act of 1968, for provisions which required retirement as rapidly as the Association shall deem feasible, and "corporation" for "Association" in six instances.

Subsec. (b). Pub. L. 90-448, § 802(j), (s)(1), substituted "corporation" for "Association" in six instances, and "fees, which may be regarded as elements of pricing, with" for "fees for its services with", and eliminated sentence which stated this subsection shall be subject to the exceptions set forth in section 1722 of this title.

Subsec. (c). Pub. L. 90-448, § 802(k), (s)(1), substituted "corporation" for "Association" in five instances, and "the aggregate amount of cash dividends paid on account of any share of such stock shall not exceed any rate which may be determined from time to time by the Secretary of Housing and Urban Development to be a fair rate of return after consideration of the current earnings and capital condition of the corporation" for "the general surplus account of the Association shall not be reduced through the payment of dividends applicable to such common stock which exceed in the aggregate 5 per centum of the par value of the outstanding common stock of the Association", inserted provisions authorizing the corporation to issue additional shares in return for appropriate payments into capital or capital and surplus, directing the corporation to require each services of its mortgages to own a minimum amount of common stock of the corporation, and prescribing the minimum amount, and eliminated provisions which related to issuance of common stock only in denominations of $100 or multiples thereof.

Subsec. (d). Pub. L. 90-448, § 802(*l*), (s), substituted "corporation" for "Association" in six instances, and "corporation's" for "Association's", and inserted provisions prohibiting issuance of preferred stock subsequent to the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968.

Subsec. (e). Pub. L. 90-448, § 802(s), substituted "corporation" for "Association" in four instances, and "corporation's" for "Association's".

Subsec. (f). Pub. L. 90-448, § 802(n), (s)(1), substituted "corporation" for "Association" in two instances, and inserted provisions authorizing purchase of additional shares of stock of the corporation.

Subsec. (g). Pub. L. 90-448, § 802(n), repealed subsec. (g), which directed the Secretary of Housing and Urban Development to transmit recommendations for eventual transfer of operations to private shareholders.

1967—Subsec. (a). Pub. L. 90-19, § 1(j)(2), substituted "Secretary of the Treasury's" for "Secretary's" in the last sentence.

Subsec. (g). Pub. L. 90-19, § 1(*l*), substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator".

1966—Subsec. (d). Pub. L. 89-566, § 2(a), raised from $115,000,000 to $225,000,000 the amount of the par value of the preferred stock of the Association which the Secretary of the Treasury is authorized and directed to accept in addition to the original $21,000,000.

Subsec. (e). Pub. L. 89-566, § 2(b), substituted "$225,000,000" for "$115,000,000" in the second sentence.

1965—Subsec. (b). Pub. L. 89-117 added "other" sources to private sources as the areas from which the Association shall accumulate funds for its capital surplus account.

1961—Subsec. (b). Pub. L. 87-70, § 603(b), directed the Association to require each borrower to make payments, equal to not more than one-half of one per centum of the amount lent to the borrower under section 1719 of this title.

Subsec. (c). Pub. L. 87-70, § 603(c), required issuance of stock to borrowers and inserted the parenthetical phrase "(adjusted by reason of any payments into surplus required by the Association)".

1957—Subsec. (b). Pub. L. 85-104, § 201, substituted provisions which fixed capital contributions payments at maximum of 2 percent and minimum of 1 percent of unpaid principal amounts of mortgages purchased or to be purchased under section 1719 of this title, for former provisions which provided for capital contributions payments equal to 2 percent of the unpaid principal amounts of mortgages purchased by the Associ-

ation or equal to such greater or lesser percentage but not less than 1 percent, as the Association might determine.

Subsec. (d). Pub. L. 85-104, § 202(a), substituted "$115,000,000" for "$50,000,000" in second sentence.

Pub. L. 85-10, § 1(a), added sentence directing Secretary of Treasury to accept additional $50,000,000 of preferred stock issued by Association.

Subsec. (e). Pub. L. 85-104, § 202(b), substituted "$115,000,000" for "$50,000,000" in the second sentence.

Pub. L. 85-10, § 1(b), inserted words "the first sentence of" preceding "subsection (d)" in the first sentence, and added sentence providing that Association stock delivered to Treasury pursuant to second sentence of subsec. (d) of this section be in exchange for Association notes of $50,000,000.

1956—Subsec. (b). Act Aug. 7, 1956, substituted provisions which required mortgage sellers to make contributions equal to not more than 2 percent of the unpaid principal amount of mortgages or greater or lesser percentage as the Association may determine, but not less than 1 percent, for former provisions that contributions equal 3 percent of the unpaid amount of the mortgages or such greater percentage as from time to time the Association may determine.

1954—Act Aug. 2, 1954, amended section generally to substitute provisions relating to capitalization (formerly covered in section 1716 of this title) and to general financial arrangements and operations for provisions relating merely to use and investment of moneys not invested in mortgages or in operating facilities (such provisions now being covered by section 1723b of this title), and the maintenance of necessary reserves.

1948—Act July 1, 1948, made section applicable to the Association instead of to any of the national mortgage associations.

1938—Act Feb. 3, 1938, inserted "or in bonds or other obligations" and added "and may purchase in the open market notes, bonds, debentures, or such other obligations issued under section 1717 of this title".

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

SPECIAL ASSISTANCE FUNDS OF ASSOCIATION FOR FINANCING LOW-COST HOMES

Section 1006 of Pub. L. 89-754, title X, Nov. 3, 1966, 80 Stat. 1285, provided that the Congress found that the sharp decline in new home construction over the past year threatened to undercut the present high level of prosperity and employment as such declines had in the past; that the substantial reduction which had taken place had its greatest impact on families of modest income who were seeking to achieve the goal of homeownership; that this decline in homebuilding was due primarily to the shortage of mortgage financing on terms which moderate income families could afford; and that national policy objectives in the field of housing and community development were thereby being thwarted. The Congress therefore expressed its intent that the special assistance funds made available to the Federal National Mortgage Association for the financing of new low-cost homes by the Act of September 10, 1966 (Public Law 89-556) [Pub. L. 89-566, amending former subsecs. (d), (e) of section 1718 and sections 1719(b), and 1720(g) of this title], should be released immediately to halt the continuing decline in the construction of new homes for families of moderate incomes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1717, 1721 of this title; title 26 sections 162, 1054.

§ 1719. Secondary market operations

(a) Purchase and sale of mortgages; maximum amount of loans; interest; maturity; settlement or extinguishment of borrower's rights

(1) To carry out the purposes set forth in paragraph (a) of section 1716 of this title, the operations of the corporation under this section shall be confined, so far as practicable, to mortgages which are deemed by the corporation to be of such quality, type, and class as to meet, generally, the purchase standards imposed by private institutional mortgage investors. In the interest of assuring sound operation, the prices to be paid by the corporation for mortgages purchased in its secondary market operations under this section, should be established, from time to time, within the range of market prices for the particular class of mortgages involved, as determined by the corporation. The volume of the corporation's purchases and sales, and the establishment of the purchase prices, sale prices, and charges or fees, in its secondary market operations under this section, should be determined by the corporation from time to time, and such determinations should be consistent with the objectives that such purchases and sales should be effected only at such prices and on such terms as will reasonably prevent excessive use of the corporation's facilities, and that the operations of the corporation under this section should be within its income derived from such operations and that such operations should be fully self-supporting. Nothing in this subchapter shall prohibit the corporation from purchasing, and making commitments to purchase, any mortgage with respect to which the Secretary of Housing and Urban Development has entered into a contract with the corporation to make interest subsidy payments under section 1715z-8 of this title.

(2) In the further interest of assuring sound operation, any loan made by the corporation in its secondary market operations under this section, and any extension or renewal thereof, shall not exceed 90 per centum of the unpaid principal balances of the mortgages securing the loan, and shall bear interest at a rate consistent with general loan policies established from time to time by the corporation's board of directors. Any such loan shall mature in not more than twelve months and the term of any extension or renewal shall not exceed twelve months. The volume of the corporation's lending activities and the establishment of its loan ratios, interest rates, maturities, and charges or fees, in its secondary market operations under this section, should be determined by the corporation from time to time; and such determinations, in conjunction with determinations made under paragraph (1), should be consistent with the objectives that the lending activities should be conducted on such terms as will reasonably prevent excessive use of the corporation's facilities, and that the operations of the corporation under this section should be within its income derived from such operations and that such operations should be fully self-supporting. Notwithstanding any Federal, State, or other law to the contrary, the corporation is empowered, in connection with any loan under this section, whether before or after any default, to provide by contract with the borrow-

er for the settlement or extinguishment, upon default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in any mortgage or mortgages that constitute the security for the loan; and with respect to any such loan, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such security shall become the absolute property of the corporation.

(b) Obligations of the Corporation

For the purposes of this section, the corporation is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury, to be redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations; but the aggregate amount of obligations of the corporation under this subsection outstanding at any one time shall not exceed fifteen times the sum of its capital, capital surplus, general surplus, reserves, and undistributed earnings unless a greater ratio shall be fixed at any time or from time to time by the Secretary of Housing and Urban Development. In no event shall any such obligations be issued if, at the time of such proposed issuance, and as a consequence thereof, the resulting aggregate amount of its outstanding obligations under this subsection would exceed the amount of the corporation's ownership pursuant to this section, free from any liens or encumbrances, of cash, mortgages or other security holdings, and obligations of the United States or guaranteed thereby, or obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds. The corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the corporation. The corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) Purchase of obligations by Treasury; conditions and restrictions

The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued pursuant to subsection (b) of this section, as now or hereafter in force, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this subsection to an amount greater than $2,250,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(d) Mortgage-backed securities; issuance; maturities; rates of interest; exempt securities; adequacy of mortgages to permit principal and interest payments

To provide a greater degree of liquidity to the mortgage investment market and an additional means of financing its operations under this section, the corporation is authorized to set aside any mortgages held by it under this section, and, upon approval of the Secretary of the Treasury, to issue and sell securities based upon the mortgages so set aside. Securities issued under this subsection may be in the form of debt obligations or trust certificates of beneficial interest, or both. Securities issued under this subsection shall have such maturities and bear such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury. Securities issued by the corporation under this subsection shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal and interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. Mortgages set aside pursuant to this subsection shall at all times be adequate to enable the corporation to make timely principal and interest payments on the securities issued and sold pursuant to this subsection.

(e) Subordinated or convertible obligations; issuance; maturities; rate of interest; redemption; limitation on amount outstanding; exempt securities; debt or obligation of United States; purchases in open market

For the purposes of this section, the corporation is authorized to issue, upon the approval of the Secretary of the Treasury, obligations which are subordinated to any or all other obligations of the corporation, including subsequent obligations. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury and may be made redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations. Any of such obligations may be made convertible into shares of common stock in such manner, at such price or prices, and at such time or times as may be stipulated therein. The total principal amount of

such subordinated obligations which may be outstanding at any one time shall not exceed two times the sum of (1) the capital of the corporation represented by its outstanding common stock and (2) its surplus and undistributed earnings at such time. The outstanding total principal amount of such obligations, which are entirely subordinated to the obligations of the corporation issued or to be issued under subsection (b) of this section, shall be deemed to be capital of the corporation for the purpose of determining the aggregate amount of obligations issued under subsection (b) of this section which may be outstanding at any one time. Obligations issued by the corporation under this subsection shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. The corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the corporation. The corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(June 27, 1934, ch. 847, title III, § 304, 48 Stat. 1254; July 1, 1948, ch. 784, § 1, 62 Stat. 1206; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 615; Aug. 7, 1956, ch. 1029, title II, §§ 203, 204(a), (b), 70 Stat. 1096; Mar. 27, 1957, Pub. L. 85-10, § 1(c), 71 Stat. 7; July 12, 1957, Pub. L. 85-104, title II, § 203, 71 Stat. 298; Sept. 23, 1959, Pub. L. 86-372, title III, §§ 302, 305(a), 73 Stat. 669, 670; June 30, 1961, Pub. L. 87-70, title VI, § 603(d), (e), 75 Stat. 176, 177; Sept. 2, 1964, Pub. L. 88-560, title VII, §§ 701(b)(2), 703, 704, 78 Stat. 800, 802; Sept. 10, 1966, Pub. L. 89-566, § 1, 80 Stat. 738; Nov. 3, 1966, Pub. L. 89-754, title X, § 1007, 80 Stat. 1285; Aug. 1, 1968, Pub. L. 90-448, title VIII, §§ 802(p)-(s), 804(a), 805, 82 Stat. 538, 542, 543; July 24, 1970, Pub. L. 91-351, title V, § 504, 84 Stat. 461; Aug. 22, 1974, Pub. L. 93-383, title VIII, § 806(j), 88 Stat. 728.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (c), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-383 substituted "section 243 of the National Housing Act", classified to section 1715z-8 of this title, for "section 502 of the Emergency Home Finance Act of 1970", which enacted such section 1715z-8. For purposes of amendment of subsec. (a)(1) of this section no change in text was required.

1970—Subsec. (a)(1). Pub. L. 91-351 added the provision that nothing in this subchapter shall prohibit the corporation from purchasing, and making commitments to purchase, any mortgage with respect to which the Secretary of Housing and Urban Development has entered into a contract with the corporation to make interest subsidy payments pursuant to section 1715z-8 of this title.

1968—Subsec. (a)(1). Pub. L. 90-448, § 802(p), (s), substituted "corporation" for "Association" in six instances, and "corporation's" for "Association's" in two instances, and eliminated provisions which prohibited the Association from purchasing any mortgage insured or guaranteed prior to August 2, 1954.

Subsec. (a)(2). Pub. L. 90-448, § 802(s), substituted "corporation" for "Association" in five instances, and "corporation's" for "Association's", in three instances.

Subsec. (b). Pub. L. 90-448, § 802(q), (s), substituted "corporation" for "Association" in seven instances, and "corporation's" for "Association's", and inserted provisions permitting the Secretary to establish a greater ratio than fifteen times for the aggregate amount of obligations outstanding.

Subsec. (c). Pub. L. 90-448, § 802(r), eliminated provisions which prohibited the Secretary of the Treasury from purchasing obligations under this subsection if all of the preferred stock of the Association held by him has been retired.

Subsec. (d). Pub. L. 90-448, § 804(a), added subsec. (d). A prior subsec. (d) was repealed by Pub. L. 88-560.

Subsec. (e). Pub. L. 90-448, § 805, added subsec. (e).

1966—Subsec. (a)(1). Pub. L. 89-754 eliminated requirement that Association's advance commitments to purchase mortgages in its secondary market operations be issued at prices which are sufficient to facilitate home financing, but which are sufficiently below the price then offered by the Association for immediate purchase to prevent excessive sales to the Association pursuant to such commitments.

Subsec. (b). Pub. L. 89-566 raised the limit on the maximum amount of obligations outstanding under the subsection from ten times the sum of capital, capital surplus, general surplus, reserves, and undistributed earnings to fifteen times that sum.

1964—Subsec. (a)(2). Pub. L. 88-560, § 703, substituted "90 per centum" for "80 per centum".

Subsec. (b). Pub. L. 88-560, § 701(b)(2), substituted "or obligations, participations, or other instruments which are lawful investments" for "or obligations which are lawful investments".

Subsec. (d). Pub. L. 88-560, § 704, repealed provisions which prohibited the Association from purchasing participations in its operations under this section.

1961—Subsec. (a). Pub. L. 87-70, § 603(d) designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 87-70, § 603(e), inserted words "or other security holdings" after "mortgages".

1959—Subsec. (a). Pub. L. 86-372, § 302, substituted "home financing" for "advance planning of home construction" following "sufficient to facilitate".

Subsec. (b). Pub. L. 86-372, § 305(a), substituted "and obligations of the United States or guaranteed thereby, or obligations which are lawful investments for fiduciary, trust, or public funds" for "and bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States".

1957—Subsec. (c). Pub. L. 85-104 substituted "$2,250,000,000" for "$1,350,000,000".

Pub. L. 85-10 substituted "$1,350,000,000" for "$500,000,000" plus an amount equal to the total of such reductions in the maximum dollar amount prescribed by section 1721(c) of this title as have theretofore been effected pursuant to that section: *Provided*, That such aggregate principal amount under this subsection shall in no event exceed $1,000,000,000".

1956—Subsec. (a). Act Aug. 7, 1956, §§ 203, 204(a), substituted in the second sentence "within the range of market prices" for "at the market prices"; and added sentence that advance commitments to purchase mortgages in secondary market operations shall be issued only at prices which are sufficient to facilitate advance planning of home construction but sufficiently below price then offered by Association for immediate purchase to prevent excessive sales to the Association pursuant to such commitments.

Subsec. (d). Act Aug. 7, 1956, § 204(b), eliminated provisions prohibiting Association from making ad-

vance contracts or commitments to purchase mortgages but allowed Association to issue a purchase contract in an amount not exceeding the amount of the sale of mortgages purchased from the Association, entitling the holder to sell to the Association mortgages in the amount of the contract, upon terms prescribed by the Association.

1954—Act. Aug. 2, 1954, amended section generally to substitute new provisions (formerly covered in sections 1716 and 1717 of this title) for provisions which related to exemption from taxation, the latter provisions now being covered by section 1723a(c) of this title.

1948—Act July 1, 1948, amended section generally to provide for exemption from taxation for the Association.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1716b, 1717, 1718, 1721 of this title.

§ 1720. Special assistance functions of Government National Mortgage Association

(a) Commitments and purchase of home mortgages

To carry out the purposes set forth in paragraph (b) of section 1716 of this title, the President, after taking into account (1) the conditions in the building industry and the national economy and (2) conditions affecting the home mortgage investment market, generally, or affecting various types or classifications of home mortgages, or both, and after determining that such action is in the public interest, may under this section authorize the Association, for such period of time and to such extent as he shall prescribe, to exercise its powers to make commitments to purchase and to purchase such types, classes, or categories of home mortgages (including participations therein) as he shall determine.

(b) Purchase standards; prices; charges and fees

The operations of the Association under this section shall be confined, so far as practicable, to mortgages (including participations) which are deemed by the Association to be of such quality as to meet, substantially and generally, the purchase standards imposed by private institutional mortgage investors but which, at the time of submission of the mortgages to the Association for purchase, are not necessarily readily acceptable to such investors. Subject to the provisions of this section, the prices to be paid by the Association for mortgages purchased in its operations under this section shall be established from time to time by the Association. The Association shall impose charges or fees for its services under this section with the objective that all costs and expenses of its operations under this section should be within its income derived from such operations and that such operations should be fully self-supporting.

(c) Limitation on purchases and commitments

The total amount of purchases and commitments authorized by the President pursuant to subsection (a) of this section shall not exceed $1,700,000,000 outstanding at any one time, which limit shall be increased by $100,000,000 on August 10, 1965, by $550,000,000 on July 1, 1967, by $525,000,000 on July 1, 1968, and by $2,000,000,000 on July 1, 1969.

(d) Obligations of the Association

The Association may issue to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section, such obligations to mature not more than five years from their respective dates of issue, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized to purchase any obligations of the Association to be issued under this section, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the Association's obligations hereunder.

(e) Advance commitments; consumer cooperatives; other cooperatives

Notwithstanding any other provision of this chapter, the Association is authorized to enter into advance commitment contracts and purchase transactions which do not exceed $200,000,000 outstanding at one time, if such commitments or transactions relate to mortgages with respect to which the Secretary of Housing and Urban Development shall have issued pursuant to section 1715e of this title either a commitment to insure or a statement of eligibility; but such commitments in any one State shall not exceed $20,000,000 outstanding at any one time: *Provided,* That (1) of the total amount of advance commitment contracts and purchase transactions authorized by this subsection, the amount of $50,000,000 shall be available solely for commitments or purchases of mortgages where the management or sales-type cooperative involved is certified by the Secretary of Housing and Urban Development as a consumer cooperative, and (2) of the commitments in any one State, not more than $15,000,000 shall be outstanding at any one time for mortgages with respect to cooperative projects which are not of the type described in clause (1) of this proviso. On and after September 23, 1959, the Association is authorized to enter into advance commitment contracts and purchase transactions (in addition to those authorized by the preceding sentence) relating to mortgages with respect to which the Secretary of Housing and Urban Development shall have issued pursuant to section 1715e of this title a commitment to insure or a statement of eligibility, without regard to any of the limitations contained in the preceding sentence; except that the total amount of the additional advance commitment contracts and purchase transac-

tions authorized by this sentence which may be outstanding at any one time shall not exceed $25,000,000, of which the amount of $12,500,000 shall be available solely for commitments or purchases of mortgages where the management or sales-type cooperative involved is certified by the Secretary of Housing and Urban Development as a consumer cooperative and the amount of $12,500,000 shall be available solely for commitments or purchases of mortgages where the cooperative involved is a builder-sponsor cooperative. Without regard to any of the limitations of this subsection except the total amount of authorizations available, the Association is authorized to enter into advance commitment contracts and purchase transactions on supplementary cooperative loans with respect to which the Secretary of Housing and Urban Development shall have issued, pursuant to section 1715e(j) of this title, either a commitment to insure or a statement of eligibility; but such commitments and purchases shall be made solely where there is a management-type cooperative involved which is certified by the Secretary of Housing and Urban Development as a consumer cooperative.

(f) Commitments to purchase, and purchase, service, and sale of mortgages on military housing

Notwithstanding any other provision of this chapter, the Association is authorized to make commitments to purchase and to purchase, service, or sell any mortgage (or participation therein) which is insured under subchapter VIII of this chapter on or after August 11, 1955: *Provided,* That the total amount of purchases and commitments authorized by this subsection shall not exceed $500,000,000 outstanding at any one time: *Provided further,* That of the amount authorized in the preceding proviso not less than $58,750,000 shall be available for such purchases and commitments with respect to mortgages insured under section 1748h–1 of this title: *Provided further,* That any portion of the total amount of authority set forth in the first proviso of this subsection, which (1) is not required under the second proviso of this subsection to be kept available for purchases and commitments with respect to mortgages insured under section 1748h–1 of this title, and (2) on August 10, 1965, and on each July 1 thereafter, would otherwise be available for making new purchases and commitments pursuant to this subsection, shall be transferred to and merged with the authority granted by subsection (a) of this section and added to the amount of such authority which is available, as of the date of the transfer, for purchases and commitments under subsection (c) of this section; and the total amount of authority as set forth in the first proviso of this subsection shall progressively be reduced by the amount of each such transfer.

(g) Commitments to purchase, and purchase, service, and sale of mortgages insured by Federal Housing Administration or guaranteed under chapter 37 of title 38; maximum principal obligation of mortgage

With a view to further carrying out the purposes set forth in section 1716(b) of this title, and notwithstanding any other provision of this chapter, the Association is authorized to make commitments to purchase and to purchase, service, or sell any mortgages which are insured under subchapter II of this chapter or guaranteed under chapter 37 of title 38 if the original principal obligation of any such mortgage does not exceed the dollar limitation on maximum principal obligation that would be applicable to such mortgage if insured under section 1715z(i) of this title. The total amount of such purchases and commitments made after August 1, 1966, shall not exceed $1,750,000,000 outstanding at any one time, and no such commitment shall be made unless the applicant therefor certifies that construction of the housing to be covered by the mortgage has not commenced. For the purposes of this subsection, $500,000,000 of the authority hereinabove provided shall be transferred from the amount of outstanding authority specified in subsection (c) of this section, and the amount of outstanding authority so specified shall be reduced by the amount so transferred.

(h) Purchase of mortgages insured under section 1715*l*(d)(3) and (h) of this title

Notwithstanding clause (2) of section 1717(b) of this title and any provision of this chapter which is inconsistent with this subsection, the Association is authorized (subject to Presidential action as provided in subsection (a) of this section as limited by subsection (c) of this section) to purchase pursuant to commitments or otherwise, and to service, sell, or otherwise deal in, mortgages insured under the provisions of sections 1715*l*(d)(3) and 1715*l*(h) of this title.

(i) Participation of Association in Federal Housing Administration-insured construction financing

In any case where the Association makes a commitment to purchase under this section (1) a mortgage insured under section 1715e of this title, (2) a mortgage insured under section 1715k of this title, (3) a mortgage insured under section 1715*l*(d)(3) of this title and executed by a cooperative (including an investor-sponsor), a limited dividend corporation, a private nonprofit corporation or association, or a mortgagor qualified under section 1715*l*(e) of this title, or (4) a mortgage insured under section 1715z–1 of this title, such commitment may provide for participation by the Association in making of insured advances on the mortgage during construction. Such participation shall be limited to 95 percentum of the amount of each of the advances involved, and the mortgagee providing the balance of such amount shall perform all necessary servicing and processing of such advances until the final insurance endorsement of the mortgage. The Secretary of Housing and Urban Development shall approve the reasonableness of the fee to be paid a participating mortgagee, taking into account its services and the extent of its participation in the advances.

(j) Special assistance purchases and sales; eligible mortgages

Notwithstanding any other provision of this chapter, the Association is authorized to purchase pursuant to commitments or otherwise mortgages otherwise eligible for purchase under this section at a price equal to the unpaid principal amount thereof at the time of purchase, with adjustments for interest and any comparable items, and to sell such mort-

gages at any time at a price within the range of market prices for the particular class of mortgages involved at the time of sale as determined by the Association. Mortgages insured under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], except mortgages for above moderate income families insured under section 517(a) of such Act [42 U.S.C. 1487(a)], are eligible for purchase under this section.

(June 27, 1934, ch. 847, title III, § 305, 48 Stat. 1254; July 1, 1948, ch. 784, § 1, 62 Stat. 1206; Apr. 20, 1950, ch. 94, title I, § 118, 64 Stat. 57; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 616; Aug. 11, 1955, ch. 783, title I, § 103, title IV, § 402, 69 Stat. 636, 651; Aug. 7, 1956, ch. 1029, title II, §§ 205-208, 70 Stat. 1096; Mar. 27, 1957, Pub. L. 85-10, § 2, 71 Stat. 8; July 12, 1957, Pub. L. 85-104, title II, §§ 204-207, 71 Stat. 298; Apr. 1, 1958, Pub. L. 85-364, §§ 2, 3(a), 4, 72 Stat. 73, 74; Sept. 23, 1959, Pub. L. 86-372, title III, §§ 303(a), 304, 73 Stat. 669; June 30, 1961, Pub. L. 87-70, title I, § 101(c), title VI, § 601(a), (b), 75 Stat. 153, 175, 176; Sept. 2, 1964, Pub. L. 88-560, title I, § 109(b), 78 Stat. 777; Aug. 10, 1965, Pub. L. 89-117, title VIII, § 801, 79 Stat. 493; May 24, 1966, Pub. L. 89-429, § 3(a), 80 Stat. 166; Sept. 10, 1966, Pub. L. 89-566, § 3, 80 Stat. 738; Nov. 3, 1966, Pub. L. 89-754, title III, § 310(d), title X, §§ 1005, 1020(c), 80 Stat. 1270, 1285, 1296; May 25, 1967, Pub. L. 90-19, § 1(a)(2), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title II, § 201(g), title VIII, § 806, 82 Stat. 503, 544; Dec. 24, 1969, Pub. L. 91-152, § 2, title I, § 115, 83 Stat. 379, 385; July 24, 1970, Pub. L. 91-351, title IV, § 401, 84 Stat. 458.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (d), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

Title V of the Housing Act of 1949, referred to in subsec. (j), is title V of act July 15, 1949, ch. 338, 63 Stat. 432, as amended, and is classified to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare.

AMENDMENTS

1970—Subsec. (c). Pub. L. 91-351, § 401(a), substituted "$2,000,000,000 on July 1, 1969" for $500,000,000 on July 1, 1969".

Subsec. (g). Pub. L. 91-351, § 401(b), struck out the requirement that the Association purchase mortgages at par, substituted provisions that the original principal obligation of any mortgage involved not exceed the dollar limitation on maximum principal obligation that would be applicable to such mortgage if insured under section 1715z of this title, for provisions that such original principal obligation not exceed $17,500, increased to not more than $20,000 ($25,000 in Alaska, Guam, or Hawaii) for single family dwellings in any geographical area where the Secretary determined cost levels required such an increase, and substituted "$1,750,000,000" for $2,500,000,000".

1969—Subsec. (g). Pub. L. 91-152, § 2, added the requirement that any mortgages purchased by the Association be purchased at par, increased the total amount of purchases and commitments authorized after Aug. 1, 1966 from not to exceed $1,000,000,000 outstanding at any one time to not to exceed $2,500,000,000 outstanding at any one time, and substituted "$17,500" for "$15,000", "$20,000" for "$17,500", and "$25,000" for "$22,500".

Subsec. (j). Pub. L. 91-152, § 115, added subsec. (j).

1968—Subsec. (c). Pub. L. 90-448, § 806, authorized an increase by $500,000,000 on July 1, 1969.

Subsec. (i). Pub. L. 90-448, § 201(g), included commitments to purchase a mortgage insured under section 1715z-1 of this title.

1967—Subsec. (e). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" wherever appearing.

1966—Subsec. (c). Pub. L. 89-429 deleted provisions for an increase by $450,000,000 on July 1, 1966, in the upper limit on the total amount of purchases and commitments authorized by the President pursuant to subsec. (a) of this section.

Subsec. (e). Pub. L. 89-754, § 1020(c), substituted "supplementary" for "supplementing" in the last sentence.

Subsec. (g). Pub. L. 89-566 substituted "guaranteed under chapter 37 of title 38" for "guaranteed under the Servicemen's Readjustment Act of 1944", substituted $15,000 for $13,500 as the maximum amount of the allowable original principal obligation, provided for a maximum amount of $17,500 ($22,500 in Alaska, Guam, and Hawaii) on areas where the Secretary finds that cost levels so require, struck out provision for termination of power under the subsection on June 30, 1961, and the transfer of available authority on that date to the authority granted by subsec. (a) with the amount added to the amount of authority specified in subsec. (c) of this section, and added provisions that $500,000,000 of the Association's authority be transferred from the amount of outstanding authority specified in subsec. (c) and that the amount of outstanding authority so specified be reduced by the amount so transferred.

Subsec. (h). Pub. L. 89-754, § 310(d), inserted reference to section 1715*l*(h) of this title.

Subsec. (i). Pub. L. 89-754, § 1005, added subsec. (i).

1965—Subsec. (c). Pub. L. 89-117, § 801(a), inserted provisions at the end which authorized an increase in the limit by $100,000,000 on August 10, 1965, $450,000,000 on July 1, 1966, $550,000,000 on July 1, 1967, and $525,000,000 on July 1, 1968.

Subsec. (f). Pub. L. 89-117, § 801(b), added the proviso at the end which authorized the transfer of unused amounts of authority to, and merger with, the authority granted by subsec. (a) and added to the amount available as of the date of transfer, for purchases and commitments under subsection (c) and the progressive reduction of the total amount of authority set out in the first proviso.

1964—Subsec. (e). Pub. L. 88-560 authorized the Association to enter into advance commitment contracts and purchase transactions on supplementing cooperative loans where there is a management-type consumer cooperative involved.

1961—Subsec. (c). Pub. L. 87-70, § 601(a), increased the total amount of purchases and commitments that may be outstanding at any one time from $950,000,000 to $1,700,000,000.

Subsec. (g). Pub. L. 87-70, § 601(b), inserted proviso directing termination of the authority of the Association on June 30, 1961, and requiring transfer of available amounts.

Subsec. (h). Pub. L. 87-70, § 101(c), added subsec. (h).

1959—Subsec. (b). Pub. L. 86-372, § 303(a), substituted provisions authorizing the Association to establish the price to be paid for mortgages purchased under this section for provisions which required the price, until the close of August 7, 1958, to be not less than the unpaid principal amount of the mortgage at the time of purchase, with adjustments for interest and any comparable items, and eliminated provisions which limited the charges or fees for services to not more than 1½ per centum of the unpaid principal amount of any mortgage for its commitment and its purchases of such mortgage, and which provided for the manner of collection of the charges or fees for services.

Subsec. (e). Pub. L. 86-372, § 304, authorized the Association, on and after September 23, 1959, to enter into advance commitment contracts and purchase

transactions relating to mortgages with respect to which the Federal Housing Commissioner shall have issued pursuant to section 1715e of this title a commitment to insure or a statement of eligibility.

1958—Subsec. (c). Pub. L. 85-364, § 2, substituted "$950,000,000" for "$450,000,000".

Subsec. (f). Pub. L. 85-364, § 3(a) substituted "$500,000,000" for "$450,000,000", and "of the amount authorized in the preceding proviso not less than $58,750,000" for "not less than 7.5 per centum of the amount authorized in the preceding proviso".

Subsec. (g). Pub. L. 85-364, § 4, added subsec. (g).

1957—Subsec. (b). Pub. L. 85-104, § 204, substituted, in the second sentence, "until the close of August 7, 1958, shall be not less than the unpaid principal amount thereof at the time of purchase" for "during a period of one year from August 7, 1956, shall be not less than 99 per centum of the unpaid principal amount thereof at the time of purchase", and limited Association's fees to a maximum of 1½ percent, no more than one-half at the time of commitment and the balance at the time of the purchase of the mortgage.

Subsec. (c). Pub. L. 85-104, § 205, substituted "$450,000,000" for "$200,000,000" and eliminated proviso which authorized $1,000,000 fund for use on a participation basis with private lenders.

Subsec. (e). Pub. L. 85-104, § 206, substituted "$200,000,000" for "$100,000,000" and "$20,000,000" for $10,000,000", and added proviso requiring that $50,000,000 be available for mortgages of consumer cooperatives, and that for commitments in any one State, not more than $15,000,000 be outstanding for mortgages of other cooperatives.

Pub. L. 85-10 substituted "$100,000,000" for "$50,000,000" and "$10,000,000" for "$5,000,000".

Subsec. (f). Pub. L. 85-104, § 207, substituted "$450,000,000" for "$200,000,000" and added proviso requiring not less than 7.5 per centum of authorized amount to be available for mortgages insured under section 1748h-1 of this title.

1956—Subsec. (b). Act Aug. 7, 1956, § 205, substituted provisions of second sentence, that the price to be paid for mortgages during year from Aug. 7, 1956, shall be not less than 99 percent of unpaid principal amount with adjustments for former provision that the prices to be paid by the Association for mortgages purchased shall be established from time to time by the Association.

Subsec. (c). Act Aug. 7, 1956, § 208, substituted "purchases" for "purchasers" in first sentence, preceding proviso.

Subsec. (c). Act Aug. 7, 1956, § 207, inserted "and purchase transactions" after "advance commitment contracts"; inserted "or transactions" after "if such commitments"; and substituted "but such commitments in any one State shall not exceed $5,000,000 outstanding at any one time" for "but not more than $5,000,000 of such authorization shall be available for such commitments in any one State".

Subsec. (f). Act Aug. 7, 1956, § 206, inserted "as amended on or after August 11, 1955" after the words "this chapter,".

1955—Subsec. (e). Act Aug. 11, 1955, § 103, added subsec. (e).

Subsec. (f). Act Aug. 11, 1955, § 402, added subsec. (f).

1954—Act Aug. 2, 1954, amended section generally by substituting new provisions for provisions which related to management of acquired properties and which are now covered by section 1723a of this title.

1950—Act Apr. 20, 1950, inserted "or credit, or otherwise dispose of" following "cash".

1948—Act July 1, 1948, amended section generally to provide for management of acquired properties. Former provisions of section relating to liquidation are now covered by section 1721 of this title, but former provisions of section relating to examination of affairs of every national mortgage association are not now covered.

Effective Date of 1968 Amendment

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

Delegation of Functions

Functions of the President under this section delegated to the Secretary of Housing and Urban Development, see Ex. Ord. No. 11732, July 30, 1973, 38 F.R. 20429, set out as a note under section 301 of Title 3, The President.

Limitation on Withholding or Conditioning of Assistance

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, 1968, 1969, [see Short Title note set out under section 1701 of this title], and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of Title 42, The Public Health and Welfare.

Renewal of Commitment Contracts Entered into Prior to Aug. 27, 1958

Section 303(b) of Pub. L. 86-372 provided that when the holder of a commitment contract entered into by the Federal National Mortgage Association prior to Aug. 27, 1958, pursuant to section 305 of the National Housing Act [this section], could not deliver the mortgages covered thereby within the original commitment period, and established that hardship to such holder would result therefrom and that such inability to deliver the mortgages was a consequence of circumstances beyond the control of such holder, the Association could reissue or extend such commitment for a reasonable additional period or periods, according to the circumstances, on terms not less favorable than were the terms of the original commitment.

Section Referred to in Other Sections

This section is referred to in sections 1716b, 1717, 1721, 1722 of this title.

§ 1721. Management and liquidation functions of Government National Mortgage Association

(a) Separate accountability of assets and liabilities

To carry out the purposes set forth in paragraph (c) of section 1716 of this title, the Association is authorized and directed, as of the close of the cutoff date determined by the Association pursuant to section 1718(d) of this title, to establish separate accountability for all of its assets and liabilities (exclusive of capital, surplus, surplus reserves, and undistributed earnings to be evidenced by preferred stock as provided in section 1718(d) of this title, but inclusive of all rights and obligations under any outstanding contracts), and to maintain such separate accountability for the management and orderly liquidation of such assets and liabilities as provided in this section.

(b) Issuance of obligations to expedite substitution of private financing

For the purposes of this section and to assure that, to the maximum extent, and as rapidly as possible, private financing will be substituted for Treasury borrowings otherwise required to carry mortgages held under the aforesaid separate accountability, the Association is authorized to issue, upon the approval of the Secre-

tary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association with the approval of the Secretary of the Treasury, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations; but in no event shall any such obligations be issued if, at the time of such proposed issuance, and as a consequence thereof, the resulting aggregate amount of its outstanding obligations under this subsection would exceed the amount of the Association's ownership under the aforesaid separate accountability, free from any liens or encumbrances, of cash, mortgages, and obligations of the United States or guaranteed thereby, or obligations, participations, or other instruments which are lawful investments for fiduciary, trust or public funds. The proceeds of any private financing effected under this subsection shall be paid to the Secretary of the Treasury in reduction of the indebtedness of the Association to the Secretary of the Treasury under the aforesaid separate accountability. The Association shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or of any agency or instrumentality thereof other than the Association. The Association is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) Cutoff date as controlling purchases; total amount of mortgages and commitments

No mortgage shall be purchased by the Association in its operations under this section except pursuant to and in accordance with the terms of a contract or commitment to purchase the same made prior to the cutoff date provided for in section 1718(d) of this title, which contract or commitment became a part of the aforesaid separate accountability, and the total amount of mortgages and commitments held by the Association under this section shall not, in any event, exceed $3,350,000,000: *Provided,* That such maximum amount shall be progressively reduced by the amount of cash realizations on account of principal of mortgages held under the aforesaid separate accountability and by cancellation of any commitments to purchase mortgages thereunder, as reflected by the books of the Association, with the objective that the entire aforesaid maximum amount shall be eliminated with the orderly liquidation of all mortgages held under the aforesaid separate accountability: *And provided further,* That nothing in this subsection shall preclude the Association from granting such usual and customary increases in the amounts of outstanding commitments (resulting from increased costs or otherwise) as have theretofore been covered by like increases in commitments granted by the agencies of the Federal Government insuring or guaranteeing the mortgages. There shall be excluded from the total amounts set forth in this subsection the amounts of any mortgages which, subsequent to May 31, 1954, are transferred by law to the Association and held under the aforesaid separate accountability.

(d) Issuance of obligations sufficient to carry out functions; character; purchase

The Association may issue to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section, such obligations to mature not more than five years from their respective dates of issue, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized to purchase any obligations of the Association to be issued under this section, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the Association's obligations hereunder.

(e) Acquisition of mortgages offered by Secretary of Housing and Urban Development

Notwithstanding any other provision of law, the Association is authorized, under the aforesaid separate accountability, to make commitments to purchase, and to purchase, service, or sell any obligations offered to it by the Secretary of Housing and Urban Development, or any mortgages covering residential property offered to it by any Federal instrumentality, or the head thereof. These shall be excluded from the total amounts set forth in subsection (c) of this section the amounts of any obligations or mortgages purchased by the Association pursuant to this subsection.

(f) Transfer of funds

Notwithstanding any of the provisions of this chapter or of any other law, an amount equal to the net decrease for the preceding fiscal year in the aggregate principal amount of all mortgages owned by the Association under this section shall, as of July 1 of each of the years 1961 through 1964, be transferred to and merged with the authority provided under section 1720(a) of this title, and the amount of such authority as specified in section 1720(c) of this title shall be increased by any amounts so transferred.

(g) Guarantee of principal and interest on trust certificates and other securities; fees and charges; subrogation; contract for extinguishment of right, title, or interest in mortgages; full faith and credit

The Association is authorized, upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal of and interest on such trust certificates or other securities as shall (1) be issued by the cor-

poration under section 1719(d) of this title, or by any other issuer approved for the purposes of this subsection by the Association, and (2) be based on and backed by a trust or pool composed of mortgages which are insured under this chapter or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], or which are insured or guaranteed under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, or which are guaranteed under title XIII of the Public Health Service Act [42 U.S.C. 300e et seq.]. The Association shall collect from the issuer a reasonable fee for any guaranty under this subsection and shall make such charges as it may determine to be reasonable for the analysis of any trust or other security arrangement proposed by the issuer. In the event the issuer is unable to make any payment of principal of or interest on any security guaranteed under this subsection, the Association shall make such payment as and when due in cash, and thereupon shall be subrogated fully to the rights satisfied by such payment. Any Federal, State, or other law to the contrary notwithstanding, the Association is hereby empowered, in connection with any guaranty under this subsection, whether before or after any default, to provide by contract with the issuer for the extinguishment, upon default by the issuer, of any redemption, equitable, legal, or other right, title, or interest of the issuer in any mortgage or mortgages constituting the trust or pool against which the guaranteed securities are issued; and with respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such trust or pool shall become the absolute property of the Association subject only to the unsatisfied rights of the holders of the securities based on and backed by such trust or pool. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guaranty under this subsection. There shall be excluded from the total amounts set forth in subsection (c) of this section the amounts of any mortgages acquired by the Association as a result of its operations under this subsection.

(June 27, 1934, ch. 847, title III, § 306, 48 Stat. 1255; July 1, 1948, ch. 784, § 1, 62 Stat. 1209; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; 1950 Reorg. Plan No. 22, eff. July 9, 1950, 15 F.R. 4365, 64 Stat. 1277; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 618; Aug. 7, 1956, ch. 1029, title II, § 209, 70 Stat. 1097; Sept. 23, 1959, Pub. L. 86-372, title III, §§ 305(a), 306(a), 73 Stat. 670; June 30, 1961, Pub. L. 87-70, title VI, § 601(c), 75 Stat. 176; Sept. 2, 1964, Pub. L. 88-560, title VII, § 701(b)(2), 78 Stat. 800; Aug. 10, 1965, Pub. L. 89-117, title VIII, § 802(b), 79 Stat. 494; May 25, 1967, Pub. L. 90-19, § 1(k), 81 Stat. 18; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 804(b), 82 Stat. 542; Dec. 29, 1973, Pub. L. 93-222, § 7(c), 87 Stat. 936.)

REFERENCES IN TEXT

Section 1718(d) of this title, referred to in subsecs. (a) and (c), authorizing the issuance of preferred stock to the Secretary of the Treasury, was repealed by Pub. L. 93-383, title VIII, § 806(i), Aug. 22, 1974, 88 Stat. 728.

The Second Liberty Bond Act, referred to in subsec. (d), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

Title V of the Housing Act of 1949, referred to in subsec. (g), is title V of act July 15, 1949, ch. 338, 63 Stat. 432, as amended, and is classified to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare.

The Servicemen's Readjustment Act of 1944, referred to in subsec. (g), was act June 22, 1944, ch. 268, 58 Stat. 284, which was repealed by Pub. L. 85-857, § 14(87), Sept. 2, 1958, 72 Stat. 1273, and is now covered by section 1801 et seq. of Title 38, Veteran's Benefits.

Title XIII of the Public Health Service Act, referred to in subsec. (g), is title III of act July 1, 1944, ch. 373, as added Dec. 29, 1973, Pub. L. 93-222, § 2, 87 Stat. 914, and is classified to subchapter XI (§ 300e et seq.) of chapter 6A of Title 42.

CODIFICATION

An original section 307 of act June 27, 1934, ch. 847, title III, 48 Stat. 1255, as amended Feb. 3, 1938, ch. 13, § 8, 52 Stat. 24, which related to exemption from taxation, and which was classified to this section number, was omitted in the general amendment of this subchapter by act July 1, 1948, ch. 784, § 1, 62 Stat. 1206, and was subsequently covered by section 1719 of this title until the general amendment of this subchapter by act Aug. 2, 1954. The provisions are now covered by section 1723a(c) of this title.

AMENDMENTS

1973—Subsec. (g). Pub. L. 93-222 included mortgages which are guaranteed under title XIII of the Public Health Service Act.

1968—Subsec. (g). Pub. L. 90-448 added subsec. (g).

1967—Subsec. (e). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Agency or its Administrator, or by such Agency's constituent units or agencies or the heads thereof".

1965—Subsec. (e). Pub. L. 89-117 authorized the Association to deal in any obligations offered to it by the Housing and Home Finance Agency or its Administrator or by such Agency's units or agencies or by the heads thereof as well as residential mortgages offered to it by any Federal instrumentality, or the head thereof.

1964—Subsec. (b). Pub. L. 88-560 substituted "or obligations, participations, or other instruments which are lawful investments" for "or obligations which are lawful investments".

1961—Subsec. (f). Pub. L. 87-70 added subsec. (f).

1959—Subsec. (b). Pub. L. 86-372, § 305(a), substituted "and obligations of the United States or guaranteed thereby, or obligations which are lawful investments for fiduciary, trust, or public funds" for "and bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States".

Subsec. (e). Pub. L. 86-372, § 306(a), added subsec. (e).

1956—Subsec. (c). Act Aug. 7, 1956, § 209(a), eliminated "and subsection (e) of this section" in the last sentence following the words "set forth in this subsection".

Subsec. (e). Act Aug. 7, 1956, § 209(b), repealed provisions which related to applicability of prior authorized total amount of investments, etc., to functions under this section and section 1720 of this title.

1954—Act Aug. 2, 1954, amended section generally by substituting entirely new provisions and subdividing section into subsecs. (a) to (e).

1948—Act July 1, 1948, amended section generally to provide for the liquidation of the Association. Former provisions regarding rules and regulations governing national mortgage associations are not now covered.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

TRANSFER OF FUNCTIONS

"Administrator" was changed to "Commissioner" by section 122 of act Apr. 20, 1950, and then to "Housing and Home Finance Administrator" by Reorg. Plan No. 22 of 1950, set out under section 1717 of this title.

ADMINISTRATIVE EXPENSES IN CONNECTION WITH THE SALE OF CERTAIN MORTGAGES TO THE FEDERAL NATIONAL MORTGAGE ASSOCIATION

Section 306(b) of Pub. L. 86-372, as amended by Pub. L. 90-19, § 16(b), May 25, 1967, 81 Stat. 25; Pub. L. 90-448, title VIII, § 807(a), Aug. 1, 1968, 82 Stat. 544, provided that: "In connection with the sale of any mortgages to the Government National Mortgage Association pursuant to section 306(e) of the Federal National Mortgage Association Charter Act [subsection (e) of this section], the Secretary of Housing and Urban Development is authorized, and any other official, unit, or agency selling such mortgages thereunder is directed, to transfer to the Association from time to time, from authorizations, limitations, and funds available for administrative expenses of such official, unit, or agency in connection with the same mortgages, such amounts thereof as said Secretary determines to be required for administrative expenses of the Association in connection with the purchase, servicing, and sale of such mortgages: *Provided*, That no such transfer shall be made after a budget estimate of the Association with respect to the same mortgages has been submitted to and finally acted upon by the Congress."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 1455, 1464, 1716b, 1717, 1722, 1723e of this title.

§ 1722. Benefits and burdens incident to administration of functions and operations under sections 1720 and 1721

All of the benefits and burdens incident to the administration of the functions and operations of the Association under sections 1720 and 1721, respectively, of this title, after allowance for related obligations of the Association, its prorated expenses, and the like, including amounts required for the establishment of such reserves as the Secretary of Housing and Urban Development shall deem appropriate, shall inure solely to the Secretary of the Treasury, and such related earnings or other amounts as become available shall be paid annually by the Association to the Secretary of the Treasury for covering into miscellaneous receipts.

(June 27, 1934, ch. 847, title III, § 307, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 619, and amended Aug. 1, 1968, Pub. L. 90-448, title VIII, § 802(v), (w), 82 Stat. 539.)

AMENDMENTS

1968—Pub. L. 90-448 repealed former subsecs. (a) and (b) which related to separate accountability and to functions of the Association under sections 1720 and 1721 of this title, redesignated former subsec. (c) as the entire section, and substituted therein "Secretary of Housing and Urban Development" for "board of directors of the Association".

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

§ 1723. Management

(a) Government National Mortgage Association

All the powers and duties of the Government National Mortgage Association shall be vested in the Secretary of Housing and Urban Development and the Association shall be administered under the direction of the Secretary. Within the limitations of law, the Secretary shall determine the general policies which shall govern the operations of the Association, and shall have power to adopt, amend, and repeal bylaws governing the performance of the powers and duties granted to or imposed upon it by law. There is hereby established in the Department of Housing and Urban Development the position of President, Government National Mortgage Association, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall select and effect the appointment of qualified persons to fill the offices of vice president, and such other offices as may be provided for in the bylaws. Persons appointed under the preceding sentence shall perform such executive functions, powers, and duties as may be prescribed by the bylaws or by the Secretary, and such persons shall be executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(b) Federal National Mortgage Association

The Federal National Mortgage Association shall have a board of directors which shall consist of fifteen persons, one-third of whom shall be appointed annually by the President of the United States, and the remainder of whom shall be elected annually by the common stockholders. The board shall at all times have as members appointed by the President at least one person from the homebuilding industry, at least one person from the mortgage lending industry, and at least one person from the real estate industry. Each member of the board of directors shall be appointed or elected for a term ending on the date of the next annual meeting of the stockholders, except that any such member may be removed from office by the President for good cause. Any elective seat on the board which becomes vacant after the annual election of the directors shall be filled by the board, but only for the unexpired portion of the term. Any appointive seat which becomes vacant shall be filled by appointment of the President, but only for the unexpired portion of the term. Within the limitations of law and regulation, the board shall determine the general policies which shall govern the operations of the corporation, and shall have power to adopt, amend, and repeal bylaws governing the performance of the powers and duties granted to or imposed upon it by law. The board of directors shall select and effect the appointment of qualified persons to fill the offices of president and vice president, and such other offices as may be provided for in the bylaws. Any member of the board who is a full-time officer or employee of the Federal Government shall not, as such member, receive compensation for his services.

(June 27, 1934, ch. 847, title III, § 308, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 620, and amended Sept. 9, 1965, Pub. L. 89-174,

§ 5(b), 79 Stat. 669; Nov. 3, 1966, Pub. L. 89-754, title X, § 1020(d), 80 Stat. 1296; May 25, 1967, Pub. L. 90-19, § 1(*l*), (m), 81 Stat. 18, 19; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 802(y), 82 Stat. 539; Aug. 3, 1976, Pub. L. 94-375, § 17(a), 90 Stat. 1076.)

PRIOR PROVISIONS

An original section 308 of act June 27, 1934, ch. 847, title III, 48 Stat. 1255, which related to depositories of public moneys, was omitted in the general amendment of this subchapter by act July 1, 1948, ch. 784, § 1, 62 Stat. 1206.

Prior provisions on the subject of this section were contained in section 1716 of this title.

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-375 substituted provision establishing, in the Department of Housing and Urban Development, the position of president of the Government National Mortgage Association, to be filled by the President, by and with the consent of the Senate, for provision that the Secretary appoint the president of the Association.

1968—Subsec. (a). Pub. L. 90-448, § 802(y)(1) to (6), designated existing provisions as subsec. (a), inserted provisions directing that the powers and duties of the Government National Mortgage Association shall be vested in the Secretary of Housing and Urban Development and that the Association shall be administered under the direction of the Secretary, and empowering the Secretary to adopt, amend, and repeal bylaws, and eliminated provisions which related to the Board of Directors of the Federal National Mortgage Association.

Subsec. (b). Pub. L. 90-448, § 802(y)(7), added subsec. (b).

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator", and "the Secretary" for "said Administrator", wherever appearing, respectively.

1966—Pub. L. 89-754 struck out subsec. (a) designation.

1965—Pub. L. 89-174 deleted the next to last sentence which provided that the basic rate of compensation of the position of president of the Association shall be the same as the basic rate of compensation established for the heads of the constituent agencies of the Housing and Home Finance Agency.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment of this section by Pub. L. 89-174, see section 11(a) of Pub. L. 89-174, set out as a note under section 3531 of Title 42, The Public Health and Welfare.

POWERS AND DUTIES OF POSITION OF PRESIDENT TO REMAIN IN EFFECT UNTIL POSITION FILLED

Section 17(e) of Pub. L. 94-375 provided that: "Notwithstanding the amendment made by subsection (a) [amending subsec. (a) of this section], the rights, powers, and duties of the position of President, Government National Mortgage Association, as in effect on the day preceding the date of enactment of this Act [Aug. 3, 1976] shall remain in effect until the position established hereunder has been filled in accordance with the terms of this Act [see Short Title note set out under section 1701 of this title]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1723a of this title; title 42 section 3534.

§ 1723a. General powers of Government National Mortgage Association and Federal National Mortgage Association

(a) Seal, and other matters incident to operation

Each of the bodies corporate named in section 1717(a)(2) of this title shall have power to adopt, alter, and use a corporate seal, which shall be judicially noticed; to enter into and perform contracts, leases, cooperative agreements, or other transactions, on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or the Commonwealth of Puerto Rico, or with any political subdivision thereof, or with any person, firm, association, or corporation; to execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; in its corporate name, to sue and to be sued, and to complain and to defend, in any court of competent jurisdiction, State or Federal, but no attachment, injunction, or other similar process, mesne or final, shall be issued against the property of the Association or against the Association with respect to its property; to conduct its business without regard to any qualification or similar statute in any State of the United States, including the District of Columbia, the Commonwealth of Puerto Rico, and the Territories and possessions of the United States; to lease, purchase, or acquire any property, real, personal, or mixed, or any interest therein, to hold, rent, maintain, modernize, renovate, improve, use, and operate such property, and to sell, for cash or credit, lease, or otherwise dispose of the same, at such time and in such manner as and to the extent that it may deem necessary or appropriate; to prescribe, repeal, and amend or modify, rules, regulations, or requirements governing the manner in which its general business may be conducted; to accept gifts or donations of services, or of property, real, personal, or mixed, tangible, or intangible, in aid of any of its purposes; and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(b) Determination with respect to obligations and expenditures

Except as may be otherwise provided in this subchapter, in the Government Corporation Control Act [31 U.S.C. 841 et seq.], or in other laws specifically applicable to Government corporations, the Association shall determine the necessity for and the character and amount of its obligations and expenditures and the manner in which they shall be incurred, allowed, paid, and accounted for.

(c) Exemption from taxation

(1) The Association, including its franchise, capital, reserves, surplus, mortgages or other security holdings, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Association shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(2) The corporation, including its franchise, capital, reserves, surplus, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any county, municipality, or local taxing authority, except that any real property of the corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent as other real property is taxed.

(d) Appointment and compensation of personnel; use of services of other agencies

(1) Subject to the provisions of section 1723(a) of this title, the Secretary of Housing and Urban Development shall have power to select and appoint or employ such officers, attorneys, employees, and agents of the Association, to vest them with such powers and duties, and to fix and to cause the Association to pay such compensation to them for their services, as he may determine, subject to the civil service and classification laws. With the consent of any Government corporation or Federal Reserve bank, or of any board, commission, independent establishment, or executive department of the Government, the Association may avail itself on a reimbursable basis of the use of information, services, facilities, officers, and employees thereof, including any field service thereof, in carrying out the provisions of the subchapter.

(2) The board of directors of the corporation shall have the power to select and appoint or employ such officers, attorneys, employees, and agents, to vest them with such powers and duties, and to fix and to cause the corporation to pay such compensation to them for their services, as it may determine; and any such action shall be without regard to the Federal civil service and classification laws. Appointments, promotions, and separations so made shall be based on merit and efficiency, and no political tests or qualifications shall be permitted or given consideration. Each officer and employee of the corporation who is employed by the corporation prior to January 31, 1972, and who on the day previous to the beginning of such employment will have been subject to the civil service retirement law (subch. III of ch. 83 of title 5) shall, so long as his employment by the corporation continues without a break in continuity of service, continue to be subject to such law; and for the purpose of such law his employment by the corporation without a break in continuity of service shall be deemed to be employment by the Government of the United States. The corporation shall contribute to the Civil Service Retirement and Disability Fund a sum as provided by section 8334(a) of title 5, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5 and except as hereinafter provided) paid to the employees of the corporation who are covered by the civil service retirement law, the per centum rate determined annually by the United States Civil Service Commission to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5. The corporation shall also pay into the Civil Service Retirement and Disability Fund such portion of the cost of administration of the fund as is determined by the United States Civil Service Commission to be attributable to its employees. Notwithstanding the foregoing provisions, there shall not be considered for the purposes of the civil service retirement law that portion of the basic pay in any one year of any officer or employee of the corporation which exceeds the basic pay provided for positions listed in section 5312 of title 5 on the last day of such year: *Provided,* That with respect to any person whose employment is made subject to the civil service retirement law by section 806 of the Housing and Community Development Act of 1974, there shall not be considered for the purposes of such law that portion of his basic pay in any one year which exceeds the basic pay provided for positions listed in section 5316 of such title 5 on the last day of such year. Except as provided in this subsection, the corporation shall not be subject to the provisions of title 5.

(e) Prohibition against use of names; injunction; damages

No individual, association, partnership, or corporation, except the bodies corporate named in section 1717(a)(2) of this title, shall hereafter use the words "Federal National Mortgage Association," "Government National Mortgage Association," or any combination of such words, as the name or a part thereof under which he or it shall do business. Violations of the foregoing sentence may be enjoined by any court of general jurisdiction at the suit of the proper body corporate. In any such suit, the plaintiff may recover any actual damages flowing from such violation, and, in addition, shall be entitled to punitive damages (regardless of the existence or nonexistence of actual damages) of not exceeding $100 for each day during which such violation is committed or repeated.

(f) Preparation of forms of obligations and certificates

In order that the Association may be supplied with such forms of obligations or certificates as it may need for issuance under this subchapter, the Secretary of the Treasury is authorized, upon request of the Association, to prepare such forms as shall be suitable and approved by the Association, to be held in the Treasury subject to delivery, upon order of the Association. The engraved plates, dies, bed pieces, and other material executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such forms.

(g) Depositaries, custodians, and fiscal agents

The Federal Reserve banks are authorized and directed to act as depositaries, custodians, and fiscal agents for each of the bodies corporate named in section 1717(a)(2) of this title, for its own account or as fiduciary, and such banks shall be reimbursed for such services in such manner as may be agreed upon; and each of such bodies corporate may itself act in such capacities, for its own account or as fiduciary, and for the account of others.

(h) Regulatory power over Federal National Mortgage Association; approval for issuance of stock, obligations, securities, or other instruments; relation of mortgage purchases to national goal; audits; reports

The Secretary of Housing and Urban Development shall have general regulatory power over the Federal National Mortgage Association and shall make such rules and regulations as shall be necessary and proper to insure that the purposes of this subchapter are accomplished. No stock, obligation, security, or other instrument shall be issued by the corporation without the prior approval of the Secretary. The Secretary may require that a reasonable portion of the corporation's mortgage purchases be related to the national goal of providing adequate housing for low and moderate income families, but with reasonable economic return to the corporation. The Secretary may examine and audit the books and financial transactions of the corporation, and he may require the corporation to make such reports on its activities as he deems advisable.

(June 27, 1934, ch. 847, title III, § 309, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 620, and amended June 30, 1961, Pub. L. 87-70, title VI, § 603(e), 75 Stat. 177; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 802(z)-(ee), 82 Stat. 540, 541; June 6, 1972, Pub. L. 92-310, title II, § 223(c), 86 Stat. 206; Aug. 22, 1974, Pub. L. 93-383, title VIII, § 806(k), 88 Stat. 728; Aug. 3, 1976, Pub. L. 94-375, § 17(b), 90 Stat. 1076.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in subsec. (b), is act Dec. 6, 1945, ch. 557, 59 Stat. 597, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 841 of Title 31 and Tables volume.

The civil service laws, referred to in subsec. (d), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The classification laws, referred to in subsec. (d), are classified to chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

The civil service retirement law, referred to in subsec. (d), is classified to subchapter III (§ 8331 et seq.) of chapter 83 of title 5.

Section 806 of the Housing and Community Development Act of 1974, referred to in subsec. (d)(2), is section 806 of Pub. L. 93-383, title VIII, Aug. 22, 1974, 88 Stat. 727. Subsection (k) of section 806 amended this subsec. (d)(2) relative to employment subject to the civil service retirement law. For complete distribution of section 806 in this Code, see Tables volume.

AMENDMENTS

1976—Subsec. (d)(1). Pub. L. 94-375 substituted "Subject to the provisions of section 1723(a) of this title, the Secretary" for "The Secretary".

1974—Subsec. (d)(2). Pub. L. 93-383 added "positions listed" preceding "in section 5312" and proviso relating to persons whose employment is subject to the civil service law by section 806 of the Housing and Community Development Act of 1974, and substituted reference to Jan. 31, 1972, for reference to termination of transitional period referred to in section 810(b) of the Housing and Urban Development Act of 1968.

1972—Subsec. (d)(1). Pub. L. 92-310 eliminated provisions which related to bonds of officers, attorneys, employees, and agents of the Association and which permitted the Association to pay the premiums therefor.

1968—Subsec. (a). Pub. L. 90-448, § 802(z), among other changes, expanded scope to include both the Government National Mortgage Association and the Federal National Mortgage Association, substituted "conduct its business without regard to any qualification or similar statute" for "conduct its business", and eliminated provisions which empowered the Federal National Mortgage Association, by its board of directors, to adopt, amend, and repeal bylaws.

Subsec. (c)(1). Pub. L. 90-448, § 802(aa)(1) to (3), designated existing provisions as par. (1), and eliminated therefrom provisions which required the Association, with respect to its secondary market operations under section 1719 of this title, to pay annually to the Secretary of the Treasury an amount equivalent to the amount of Federal income taxes for which it would be subject if it were not exempt from such taxes with respect to such secondary market operations.

Subsec. (c)(2). Pub. L. 90-448, § 802(aa)(4), added subsec. (c)(2).

Subsec. (d)(1). Pub. L. 90-448, § 802(bb)(1) to (3), designated existing provisions as par. (1), and substituted therein "Secretary of Housing and Urban Development" for "Chairman of the Board", and "agents of the Association" for "agents".

Subsec. (d)(2). Pub. L. 90-448, § 802(bb)(4), added subsec. (d)(2).

Subsec. (e). Pub. L. 90-448, § 802(cc), prohibited the use of the name Government National Mortgage Association, authorized injunctions, and permitted recovery of actual damages and punitive damages, and eliminated provisions which made violations of this subsection a misdemeanor punishable by a fine of not more than $100 or imprisonment for not more than 30 days, or both, for each day during which the violation is committed or repeated.

Subsec. (g). Pub. L. 90-448, § 802(dd), authorized and directed the Federal Reserve Banks to act for the Government National Mortgage Association, and empowered each of the bodies corporate to act as depositary, custodian, and fiscal agent, for its own account or as fiduciary, and for the account of others.

Subsec. (h). Pub. L. 90-448, § 802(ee), added subsec. (h).

1961—Subsec. (c). Pub. L. 87-70 inserted words "or other security holdings" after "mortgages".

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

PERSONS RECEIVING AN ANNUITY ON AUGUST 22, 1974

Section 806(k) of Pub. L. 93-383 provided in part that, except with respect to any person receiving an annuity on the date of the enactment of Pub. L. 93-383, which was approved Aug. 22, 1974, subsec. (d)(2) of this section is amended by section 806(k) of Pub. L. 93-383.

PRIOR PROVISIONS

Prior provisions on the subject of subsec. (a) and (c) to (e) of this section were contained in sections 1716, 1719, and 1721 of this title.

CROSS REFERENCES

Misdemeanor, definition of, see section 1 of Title 18, Crimes and Criminal Procedure.

Penalty for false advertising or misuse of name of Federal National Mortgage Association, see section 709 of Title 18.

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

§ 1723b. Investment of funds

Moneys of the Association not invested in mortgages or other security holdings or in oper-

ating facilities shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(June 27, 1934, ch. 847, title III, § 310, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 621, and amended Sept. 23, 1959, Pub. L. 86-372, title III, § 305(b), 73 Stat. 670; June 30, 1961, Pub. L. 87-70, title VI, § 603(e), 75 Stat. 177; Sept. 2, 1964, Pub. L. 88-560, title VII, § 701(b)(3), 78 Stat. 800.)

AMENDMENTS

1964—Pub. L. 88-560 authorized investment of funds in participations and other instruments which are lawful investments.

1961—Pub. L. 87-70 inserted words "or other security holdings" after "mortgages".

1959—Pub. L. 86-372 substituted "in obligations of the United States or guaranteed thereby, or in obligations which are lawful investments for fiduciary, trust, or public funds" for "in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States".

PRIOR PROVISIONS

Prior provisions on the subject of this section were formerly contained in section 1718 of this title.

§ 1723c. Obligations, participations, or other instruments as lawful investments; acceptance as security; exempt securities; approval for issuance

All obligations, participations, or other instruments issued by either of the bodies corporate named in section 1717(a)(2) of this title shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority and control of the United States or any officer or officers thereof. All stock, obligations, securities, participations, or other instruments issued pursuant to this subchapter shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission; but all such issuances shall be made only with the approval of the Secretary of Housing and Urban Development.

(June 27, 1934, ch. 847, title III, § 311, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 622, and amended Sept. 2, 1964, Pub. L. 88-560, title VII, § 701(b)(1), 78 Stat. 800; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 802(ff), 82 Stat. 542.)

AMENDMENTS

1968—Pub. L. 90-448 substituted "either of the bodies corporate named in section 1717(a)(2) of this title" for "the Association," and inserted provisions directing that all stock, obligations, securities, participations, or other instruments issued pursuant to this subchapter be deemed to be exempt securities, and requiring approval of the Secretary for all issuances.

1964—Pub. L. 88-560 inserted ", participations, or other instruments" following "obligations".

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

§ 1723d. Transfer of certain functions to Association

The functions of the Housing and Home Finance Administrator (including the function of making payments to the Secretary of the Treasury) under section 2 of Reorganization Plan Numbered 22 of 1950, together with the notes and capital stock of the Federal National Mortgage Association held by said Administrator thereunder, are transferred to the Federal National Mortgage Association.

(Aug. 2, 1954, ch. 649, title II, § 207, 68 Stat. 622.)

REFERENCES IN TEXT

Reorganization Plan No. 22 of 1950, referred to in the text, is set out as a note under section 1717 of this title.

CODIFICATION

Section was enacted as a part of the Housing Act of 1954, and not as a part of the National Housing Act, which comprises this chapter, or of the Federal National Mortgage Association Act, which comprises this subchapter.

§ 1723e. Interim mortgage purchasing authority of Association

(a) Finding of necessity and directive by Secretary; termination

(1) Whenever the Secretary finds inflationary conditions and related governmental actions or other economic conditions are having a severely disproportionate effect on the housing industry and the resulting reduction in the volume of home construction or acquisition threatens seriously to affect the economy and to delay the orderly achievement of the national housing goals contained in title XVI of the Housing and Urban Development Act of 1968, the Secretary shall direct the Association to begin making commitments to purchase and to purchase mortgages in accordance with the provisions of this section.

(2) The Secretary may direct the Association to terminate its activities under this section whenever he determines that the conditions which gave rise to his determination under paragraph (1) are no longer present.

(b) Implementation pursuant to directive; mortgages subject to commitments to purchase, service, and sale

Whenever the Secretary issues a directive under subsection (a)(1) of this section, the Association shall make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, mortgages (1) which cover more than four-family residences (including cooperatives and condominiums and the individual units therein) and which are insured under this chapter and chapter 37 of title 38, or (2) which cover one- to four-family residences and which are insured under this chapter or guaranteed under chapter 37 of title 38 or by qualified private insurers as determined by the Association or the outstanding principal balances of which do not exceed 80 per centum of the value of the property securing the mortgages. A mortgage may be purchased under this section only if—

(A) such mortgage was executed to finance the acquisition of a one- to four-family resi-

dence which will be the principal residence of the mortgagor or to finance the purchase of a more than four-family residence and is subject to a mortgage insured under this chapter;

(B) such mortgage involves an original principal obligation not to exceed $42,000 per family residence or dwelling unit, and except that the original principal obligation may not exceed $55,000 in the case of properties in Alaska, Hawaii, and Guam;

(C) such mortgage involves an interest rate not in excess of that which the Secretary may prescribe, taking into account the cost of funds and administrative costs under this section, but in no event shall such rate exceed the lesser of (i) 7½ per centum per annum, or (ii) the rate set by the Secretary applicable to mortgages insured under section 1709(b) of this title, and no State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with mortgage transactions or any State law prohibiting the coverage of mortgage insurance required by the Association shall apply to transactions under this section; and

(D) such mortgage involves a principal residence the sales price of which does not exceed $48,000 ($52,000 in high-cost areas as determined by the Secretary) per family residence or dwelling unit, except that such sales price in Alaska, Hawaii, and Guam may not exceed $65,000.

(c) Issuance of obligations to Secretary of Treasury sufficient to implement functions; maturity; redemption; interest rate; purchase by Secretary of Treasury; public debt transactions

The Association may issue to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section. Each such obligation shall mature at such time and be redeemable at the option of the Association in such manner as may be determined by the Association, and shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligation of the Association. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Association issued under this section, and for such purposes the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchase of the Association's obligations hereunder.

(d) Guarantee and insurance of securities purchased by Association; applicability of guarantee powers of section 1721(g) of this title to securities; exceptions; sale of guaranteed securities; disposition of proceeds from sale

(1) The Association is authorized to guarantee securities based on pools or trusts of the mortgages eligible for purchase by the Association under this section as provided in section 1721(g) of this title with respect to federally insured or guaranteed mortgages and to act as issuer of such guaranteed securities. Such securities shall bear interest at a rate equal to the rate on the underlying mortgages less an allowance for servicing and other expenses as approved by the Association. The Association shall possess with respect to securities under this section all the powers it possesses with respect to securities guaranteed under such section 1721(g) of this title, and the provisions of such section shall apply to guarantees under this section, except that such section shall not be deemed to prohibit the Secretary from guaranteeing payment of only a part of the principal and interest on securities issued under the provisions of this section.

(2) The Association may offer and sell any mortgages purchased or securities guaranteed under this section to the Federal Financing Bank, and such Bank is authorized and directed to purchase any such mortgages or securities offered by the Association. The Association may also offer and sell any securities guaranteed under this subsection to any Federal Reserve bank. The proceeds from the sale of such securities when issued by the Association shall be treated in the accounts in the same manner as if such proceeds were from the sale of the underlying mortgages.

(e) Purchase of mortgages covering housing constructed more than twelve months prior to enactment of interim mortgage purchasing authority

The Secretary may make available a portion of his authority under this section to purchase mortgages covering housing which has been constructed more than twelve months prior to October 18, 1974, in areas where he determines that there is a serious shortage of mortgage credit to purchase such housing.

(f) Criteria for sales price of purchased mortgages and payments for services

The Association is authorized to—

(1) sell mortgages purchased under this section of prices which it determines will help promote the objective of assuring that operations under this section are, to the extent feasible, fully self-supporting;

(2) pay for services performed in carrying out its functions under this section without regard to any limitation on administrative expenses heretofore enacted.

(g) Limitation on amount of purchases and commitments

The total amount of purchases and commitments authorized by the Secretary to be made pursuant to this section shall not exceed $7,750,000,000 outstanding at any one time. Such total amount shall be increased on or after July 2, 1975, by such amount as is approved in an appropriation Act, but not to exceed $10,000,000,000, and the Association shall not issue obligations pursuant to this section utilizing authority which is conferred by this sentence or which is conferred by the first sentence of this subsection but uncommitted on October 18, 1975, except as approved in appropriation Acts.

(h) Purchase and sale of mortgages covering more than four-family residence or single-family unit in condominium

Notwithstanding the provisions of subsection (b) of this section, the Association may make commitments to purchase and purchase, and may service, sell (with or without recourse), or otherwise deal in, a mortgage which covers more than four-family residences (including residences in a cooperative or condominium), or a single-family unit in a condominium, and which is not insured under this chapter or guaranteed under chapter 37 of title 38, if—

(1) in the case of a project mortgage, the principal obligation of the mortgage does not exceed, for that part of the property attributable to dwelling use, the lesser of (A) the per unit amount specified in subsection (b)(B) of this section, or (B) the per unit limitations specified in section 1713 of this title in the case of a rental project or section 1715e of this title in a case of a cooperative project, or section 1715y of this title in the case of a condominium project;

(2) in the case of a mortgage covering a housing project, the outstanding principal balance of the mortgage does not exceed 75 per centum of the value of the property securing such mortgage or is insured by a qualified private insurer or public benefit corporation created by the State which acts as an insurer as determined by the Association;

(3) in the case of a mortgage covering an individual condominium unit, the mortgage is insured by a qualified private insurer or public benefit corporation created by the State which acts as an insurer as determined by the Association or has an outstanding principal balance which does not exceed 80 per centum of the value of the property securing the mortgage;

(4) the mortgage is not being used to finance the conversion of an existing rental housing project into a condominium project or to finance the purchase of an individual unit in a condominium project in connection with the conversion of such project from rental to condominium form of ownership; and

(5) the mortgage meets the requirements of subsection (b) of this section except as modified by this subsection and any additional requirements the Secretary may prescribe to protect the interest of the United States or to protect consumers.

(June 27, 1934, ch. 847, title III, § 313, as added Oct. 18, 1974, Pub. L. 93-449, § 3(a), 88 Stat. 1364, and amended July 2, 1975, Pub. L. 94-50, title II §§ 201-206, 89 Stat. 254, 255; Aug. 3, 1976, Pub. L. 94-375, § 13(e)(1), 90 Stat. 1075.)

REFERENCES IN TEXT

Title XVI of the Housing and Urban Development Act of 1968, referred to in subsec. (a) (1), is classified to sections 1441a to 1441c of Title 42, The Public Health and Welfare.

The Second Liberty Bond Act, referred to in subsec. (c), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1976—Subsec. (b)(D). Pub. L. 94-375 added subsec. (b) (D).

1975—Subsec. (a)(1). Pub. L. 94-50, § 201, added "or other economic conditions" following "governmental actions".

Subsec. (b)(C). Pub. L. 94-50, § 202, struck out "or yield" following "involves an interest rate" and "the importance of making mortgage credit available on reasonable terms, and current conditions in the mortgage market" following "administrative costs under this section", and substituted "but in no event shall such rate exceed the lesser of (i) 7½ per centum per annum, or (ii) the rate set by the Secretary applicable to mortgages insured under section 1709(b) of this title, and no State or local usury law or comparable law establishing interest rates or prohibiting or limiting the collection or amount of discount points or other charges in connection with mortgage transactions or any State law prohibiting the coverage of mortgage insurance required by the Association shall apply to transactions under this section" for "but in no event shall such rate exceed a rate equal to the average yield during the month preceding the month in which a commitment to purchase such mortgage was issued on all marketable bonds of the United States maturing in more than six but less than twelve years from the date of such commitment (exclusive of bonds with a coupon rate of less than 6 per centum) plus one-half of 1 per centum, adjusted upward to the nearest one-eighth of 1 per centum and taking into account the need to assure that the funds are available in all States pursuant to any maximum mortgage interest rate permitted under the laws or constitutions of the various States and, notwithstanding any State law or constitution to the contrary, discount points and other charges collected in connection with mortgage transactions under this section and recognized by the Association shall not be considered in determining whether the interest note on any such mortgage exceeds any State usury ceiling".

Subsec. (d)(1). Pub. L. 94-50, § 203, substituted "eligible for purchase" for "purchased" and added provision relating to a rate of interest on the securities equal to the rate on the underlying mortgage less allowance for servicing and expenses.

Subsec. (d)(2). Pub. L. 94-50, § 204, substituted "The Association may offer and sell any mortgages purchased or securities guaranteed under this section to the Federal Financing Bank, and such Bank is authorized and directed to purchase any such mortgages or securities offered by the Association" for "The Association may offer and sell any securities guaranteed under this subsection to the Federal Financing Bank, and such Bank is authorized to purchase any securities so offered".

Subsec. (g). Pub. L. 94-50, § 206, added provisions relating to an increase in the total amount of commitments by an amount as approved in an appropriation Act, but not to exceed $10,000,000,000, and prohibiting the issuance of obligations uncommitted as of Oct. 18, 1975, except as approved in appropriations Acts.

Subsec. (h). Pub. L. 94-50, § 205, added subsec. (h).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 13(e)(2) of Pub. L. 94-375 provided that: "The amendment made by paragraph (1) [adding subsec. (b)(D) of this section] shall apply only with respect to mortgages purchased pursuant to commitments made after the date of the enactment of this Act [Aug. 3, 1976]."

EFFECTIVE DATE

Section 3(b) of Pub. L. 93-449, as amended by section 207 of Pub. L. 94-50; section 13(d) of Pub. L. 94-375, provided that: "The amendment made by subsection (a) [enacting this section] becomes effective upon the date of enactment of this Act [Oct. 18, 1974] and shall remain in effect until October 1, 1977 except that it shall remain in effect after such date to the extent

necessary (1) to honor commitments to purchase mortgages issued prior to such date, and (2) to provide for the liquidation of assets and discharge of liabilities acquired or incurred prior to such date."

CONGRESSIONAL FINDINGS AND DECLARATIONS

Section 2 of Pub. L. 93-449 provided that:
"The Congress finds and declares that—
"(1) in many parts of the Nation, residential mortgage credit is or is likely soon to become prohibitively expensive or unavailable at any price;
"(2) the unavailability of mortgage credit severely restricts housing production, causes hardship for those who wish to purchase or sell new and existing housing, and delays the achievement of the national goal of a decent home for every American family; and
"(3) there is an urgent need to provide an alternate source of residential mortgage credit on an emergency basis."

SUBCHAPTER IV—INSURANCE OF SAVINGS AND LOAN ACCOUNTS

§ 1724. Definitions

As used in this subchapter—

(a) The term "insured institution" means an institution whose accounts are insured under this subchapter.

(b) The term "insured member" means an individual, partnership, association, or corporation which holds an insured account. Each officer, employee, or agent of the United States, of any State of the United States, of the District of Columbia, of any Territory of the United States, of Puerto Rico, of the Virgin Islands, of any county, of any municipality, or of any political subdivision thereof, herein called "public unit", having official custody of public funds and lawfully investing the same in an insured institution shall, for the purpose of determining the amount of the insured account, be deemed an insured member in such custodial capacity separate and distinct from any other officer, employee, or agent of the same or any public unit having official custody of public funds and lawfully investing the same in the same insured institution in custodial capacity. Except in the case of an insured member referred to in the preceding sentence, funds held in fiduciary capacity, when invested in an insured institution, shall be insured in an amount not to exceed $40,000 for each trust estate, and notwithstanding any other provisions of this chapter, such insurance shall be separate from and additional to that covering other investments by the owners of such trust funds or the beneficiaries of such trust estates. Notwithstanding any other provision of law, two persons who are husband and wife shall have, with respect to accounts in an insured institution which are community property of such husband and wife and to the extent that such accounts are community property, not to exceed $40,000 of insurance with respect to such an account or accounts in the sole name of the husband, not to exceed $40,000 of insurance with respect to such an account or accounts in the sole name of the wife, and not to exceed $40,000 of insurance with respect to such an account or accounts in the sole name of both: *Provided,* That in no event shall this sentence increase to an amount which is greater than the total of the amounts hereinbefore set forth in this sentence the aggregate of the insurance which such husband and wife may have under this subchapter with respect to (1) any account or accounts in such institution in the sole name of either of them or in the sole names of both, and (2) any other account or accounts in such institution to the extent that such other account or accounts would, in the absence of this sentence, be required to be included in determining the amount of the individual insurance of such husband or of such wife under subsection (a) of section 1728 of this title.

(c) The term "insured account" means a share, certificate, or deposit account of a type approved by the Federal Savings and Loan Insurance Corporation which is held by an insured member in an insured institution and which is insured under the provisions of this subchapter.

(d) The term "default" means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for an insured institution for the purpose of liquidation.

(June 27, 1934, ch. 847, title IV, § 401, 48 Stat. 1255; July 16, 1952, ch. 883, 66 Stat. 727; July 28, 1959, Pub. L. 86-112, 73 Stat. 262; Oct. 16, 1966, Pub. L. 89-695, title III, § 302(a), 80 Stat. 1055; Dec. 23, 1969, Pub. L. 91-151, title I, § 8(a)(1), 83 Stat. 375; Oct. 28, 1974, Pub. L. 93-495, title I, §§ 101(b)(1), 103(a)(1), 88 Stat. 1501, 1503.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-495 substituted "Except in the case of an insured member referred to in the preceding sentence, funds" for "Funds", and substituted "$40,000" for "$20,000" wherever appearing therein.

1969—Subsec. (b). Pub. L. 91-151 substituted "$20,000" for "$15,000" in four instances.

1966—Subsec. (b). Pub. L. 89-695 substituted "$15,000" for "$10,000" in four instances.

1959—Subsec. (b). Pub. L. 86-112 provided for insurance coverage of community property accounts.

1952—Subsec. (b). Act July 16, 1952, provided adequate insurance coverage to accounts consisting of public funds and trust funds.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (b) by section 101(b)(1) of Pub. L. 93-495 relating to insurance for public funds effective on the thirtieth day beginning after Oct. 28, 1974, see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

Section 103(b), (c) of Pub. L. 93-495 provided that:
"(b) The amendment made by this section [which inserted provisions authorizing increased ceiling on deposit insurance by amending subsec. (b) of this section and section 1728(a) of this title are not applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act [subsec. (d) of this section], where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the effective date of this section.
"(c) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act [Oct. 28, 1974]."

EFFECTIVE DATE OF 1969 AMENDMENT

Section 8(b) of Pub. L. 91-151 provided that: "The amendments made by this section [amending subsec. (b) of this section and section 1728(a) of this title] are not applicable to any claim arising out of a default, as

defined in section 401(d) of the National Housing Act [subsec. (d) of this section], where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the date of enactment of this Act [Dec. 23, 1969]."

EFFECTIVE DATE OF 1966 AMENDMENT

Section 302(c) of Pub. L. 89-695 provided that: "The amendments made by this section [amending subsec. (b) of this section and section 1728 of this title respecting amount of insurance] shall not be applicable to any claim arising out of a default, as defined in section 401(d) of the National Housing Act [subsec. (d) of this section], where the appointment of a conservator, receiver, or other legal custodian as set forth in that section becomes effective prior to the date of enactment of this Act [Oct. 16, 1966]."

PROHIBITION ON CERTAIN ACTIVITIES BY DEPOSITORY INSTITUTIONS

Prohibition on withdrawal by negotiable or transferable instruments by owners of deposits or accounts in depository institutions, including insured institutions as defined in this section, see section 1832 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1425a, 1425b, 1470, 1727, 1728, 1832 of this title; title 15 section 80a-6; title 18 section 2113; title 26 section 7701; title 31 section 1052.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 28-3308, 28-3603, 31-1702 of the District of Columbia Code.

§ 1725. Creation of Federal Savings and Loan Insurance Corporation

(a) Creation, operation, and offices

There is created a Federal Savings and Loan Insurance Corporation (hereinafter referred to as the "Corporation"), which shall insure the accounts of institutions eligible for insurance as hereinafter provided, and shall be under the direction of the Federal Home Loan Bank Board and operated by it under such bylaws, rules, and regulations as it may prescribe for carrying out the purposes of this subchapter. The principal office of the Corporation shall be in the District of Columbia.

(b) Capital stock

The Corporation shall have a capital stock of $100,000,000, which shall be divided into shares of $100 each. The total amount of such capital stock shall be subscribed for by the Home Owners' Loan Corporation which is authorized and directed to subscribe for such stock and make payment therefor in bonds of the Home Owners' Loan Corporation. The Corporation shall issue to the Home Owners' Loan Corporation receipts for payment for or on account of such stock, which shall serve as evidence of the ownership thereof, and the Home Owners' Loan Corporation shall be entitled to the payment of dividends on such stock out of net earnings at a rate equal to the interest rate on such bonds, which dividends shall be cumulative.

(c) Powers

On June 27, 1934, the Corporation shall become a body corporate, and shall be an instrumentality of the United States, and as such shall have power—

(1) To adopt and use a corporate seal.

(2) To have succession until dissolved by Act of Congress.

(3) To make contracts.

(4) To sue and be sued, complain and defend, in any court of competent jurisdiction in the United States or its Territories or possessions or the Commonwealth of Puerto Rico, and may be served by serving a copy of process on any of its agents or any agent of the Federal Home Loan Bank Board and mailing a copy of such process by registered mail or by certified mail to the Corporation at Washington, District of Columbia.

(5) To appoint and to fix the compensation, by the Federal Home Loan Bank Board, of such officers, employees, attorneys, or agents, as shall be necessary for the performance of its duties under this subchapter. Nothing in this subchapter or any other provision of law shall be construed to prevent the appointment and compensation as an officer, attorney, or employee of the Corporation, of any officer, attorney, or employee of any board, corporation, commission, establishment, executive department, or instrumentality of the Government. The Corporation, with the consent of any board, corporation, commission, establishment, executive department, or instrumentality of the Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this subchapter. The Corporation shall be entitled to the free use of the United States mails for its official business in the same manner as the executive departments of the Government, and shall determine its necessary expenditures under this chapter and the manner in which the same shall be incurred, allowed, and paid, without regard to the provisions of any other law governing the expenditure of public funds. All necessary expenses in connection with the making of supervisory or other examinations (except examinations of Federal home loan banks), including the provision of services and facilities therefor, shall be considered as nonadministrative expenses.

(d) Financial operations

For the purposes of this subchapter, the Corporation shall have power to borrow money, and to issue notes, bonds, debentures, or other such obligations upon such terms and conditions as the Federal Home Loan Bank Board may determine. Moneys of the Corporation not required for current operations shall be deposited in the Treasury of the United States, or upon the approval of the Secretary of the Treasury, in any Federal Reserve bank, or shall be invested in obligations of, or guaranteed as to principal and interest by, the United States. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public money under such regulations as may be prescribed by the Secretary of the Treasury, and may also be employed as fiscal agent of the United States, and it shall perform all such reasonable duties as depositary of public money and fiscal agent as may be required of it.

(e) Taxation

All notes, bonds, debentures, or other such obligations issued by the Corporation shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. The Corporation, including its franchise, capital, reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(f) Repealed. Aug. 2, 1954, ch. 649, title VIII, § 802(b), 68 Stat. 642

(g) Prohibited words; penalty

No individual, association, partnership, or corporation shall use the words "Federal Savings and Loan Insurance Corporation", or any combination of any of these words which would have the effect of leading the public in general to believe there was any connection, actually not existing, between such individual, association, partnership, or corporation and the Federal Savings and Loan Insurance Corporation, as the name under which he or it shall hereafter do business. No individual, association, partnership, or corporation shall advertise or otherwise represent falsely by any device whatsoever that his or its accounts are insured or in anywise guaranteed by the Federal Savings and Loan Insurance Corporation, or by the Government of the United States, or by any instrumentality thereof; and no insured member shall advertise or otherwise represent falsely by any device whatsoever the extent to which or the manner in which its accounts are insured by the Federal Savings and Loan Insurance Corporation. Every individual, partnership, association, or corporation violating this subsection shall be punished by a fine of not exceeding $1,000, or by imprisonment not exceeding one year, or both.

(h) Retirement of capital stock

After June 27, 1950, the Corporation is authorized and directed to pay off and retire annually at par an amount of its capital stock equal to 50 per centum of its net income for the fiscal year. Such payments shall be made promptly after the end of each fiscal year (beginning with the first fiscal year which begins after June 27, 1950) until the entire capital stock of $100,000,000 is retired. In lieu of any and all unpaid dividends, whether for any present, past, or future period, on its capital stock, the Corporation shall pay to the Secretary of the Treasury, promptly after the end of each fiscal year, beginning with the fiscal year 1951, a return on the average amount, at par, of its capital stock outstanding during such fiscal year at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the sixth month of such fiscal year, and the Corporation shall also pay to the Secretary of the Treasury an amount equal to 2 per centum simple interest per annum on its capital stock of $100,000,000 from June 27, 1934, to June 30, 1950, less any amount heretofore paid by the Corporation as dividends on such capital stock. The retirement of such capital stock shall not affect the applicability to said Corporation of the Government Corporation Control Act, as amended [31 U.S.C. 841 et seq.].

(i) Loans to corporation

The Corporation is authorized to borrow from the Treasury, and the Secretary of the Treasury is authorized and directed to loan to the Corporation on such terms as may be fixed by the Corporation and the Secretary, such funds as in the judgment of the Federal Home Loan Bank Board are from time to time required for insurance purposes, not exceeding in the aggregate $750,000,000 outstanding at any one time, and the Corporation hereafter shall not exercise its borrowing power under the first sentence of subsection (d) of this section for the purpose of borrowing money from any other source: *Provided,* That each such loan shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of such loan: *Provided further,* That nothing in this subsection shall prevent the Corporation from issuing debentures in accordance with the provisions of subsection (b) of section 1728 of this title. For the purposes of this subsection the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include such loans. Any such loan shall be used by the Corporation solely in carrying out its functions with respect to such insurance. All loans and repayments under this subsection shall be treated as public-debt transactions of the United States.

(j) Conversion from mutual to stock form of organization

(1) Except as otherwise provided in this subsection, until June 30, 1976, the Corporation shall not approve, under regulations adopted pursuant to this subchapter or section 1464 of this title, by order or otherwise, a conversion from the mutual to stock form of organization involving or to involve an insured institution, except that this sentence shall not be deemed to limit now or hereafter the authority of the Corporation to approve conversions in supervisory cases. The Corporation may by rule, regulation, or otherwise and under such civil penalties (which may be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection.

(2) The number of applications for conversion which the Corporation may approve pursuant to such regulations prior to such date shall be

determined by the Corporation but shall not in any case be in excess of 1 per centum of the total number of all insured institutions in existence on the date of enactment, exclusive of the number of applications submitted for filing prior to May 22, 1973. *Provided,* that the Corporation shall process to final determination any application submitted for filing prior to May 22, 1973, pursuant to regulations in effect and adopted pursuant to this subchapter or section 1464 of this title: with further proviso that, with respect to a plan of conversion of any such applicant which, before May 22, 1973, has given written public notice to its accountholders of adoption of a plan of conversion or has obtained waiver forms from substantially all its new accountholders subsequent to the giving of such notice, such plan need not require payment for stock distributed to accountholders as of a record date prior to the date of such notice.

(3) Notwithstanding any other provision of law, an insured institution converting in accordance with this subsection may retain its Federal charter. The Corporation shall not, however, permit the conversion of Federally chartered associations in States the laws of which do not authorize the operation of State chartered stock associations, except that the prohibition contained in this sentence shall not apply to the District of Columbia, the Commonwealth of Puerto Rico, or a State where all insured institutions domiciled therein are Federally chartered.

(4) Any aggrieved person may obtain review of a final action of the Federal Home Loan Bank Board or the Corporation which approves, with or without conditions, or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of subsection (k) of section 1730a of this title within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of such final action as is required by or approved under regulations of the Corporation, whichever is later.

(5) The Corporation shall, at least annually and more often as circumstances require, render reports to the Congress on the exercise of its authority under this subsection.

(6) In implementing the provisions of this subsection the Corporation shall regulate the approvals granted so as to achieve (A) as much geographical dispersion as practicable; (B) an equitable distribution with respect to the size of converting institutions; (C) an appropriate distribution between State chartered and Federally chartered institutions; (D) timeliness of filing; (E) flexibility to the extent possible in plans of conversion taking into account the characteristics of particular converting institutions; (F) the meeting of capital needs; and (G) such other reasonable results as it may consider necessary or appropriate in the public interest.

(June 27, 1934, ch. 847, title IV, § 402, 48 Stat. 1256; May 28, 1935, ch. 150, § 22, 49 Stat. 298; 1947 Reorg. Plan No. 3, eff. July 29, 1947, 12 F.R. 4981, 61 Stat. 954; July 3, 1948, ch. 825, § 2, 62 Stat. 1240; June 27, 1950, ch. 369, §§ 5, 6, 64 Stat. 258; Aug. 2, 1954, ch. 649, title V, § 501(1), title VIII, § 802(b), 68 Stat. 633, 642; June 11, 1960, Pub. L. 86-507, § 1(12), 74 Stat. 200; Aug. 16, 1973, Pub. L. 93-100, § 4, 87 Stat. 343; Oct. 28, 1974, Pub. L. 93-495, title I, § 105(d), 88 Stat. 1504.)

REFERENCES IN TEXT

The Government Corporation Control Act, as amended, referred to in subsec. (h), is act Dec. 6, 1945, ch. 557, 59 Stat. 597, as amended, which is classified to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 841 of Title 31 and Tables volume.

The Second Liberty Bond Act, referred to in subsec. (i), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

CODIFICATION

Provisions of first sentence of subsec. (c)(5) that authorized the Board to appoint and fix the compensation of such officers, employees, attorneys, or agents, as shall be necessary for the performance of its duties under this subchapter "with regard to the provisions of any other laws relating to the employment or compensation of officers or employees of the United States" were omitted as obsolete and superseded.

Such appointments are now subject to the civil service laws unless specifically excepted by those laws or by laws enacted subsequent to Executive Order 8743, Apr. 23, 1941, issued by the President pursuant to the Act of Nov. 26, 1940, ch. 919, title I, § 1, 54 Stat. 1211, which covered most excepted positions into the classified (competitive) civil service. The Order is set out as a note under section 3301 of Title 5, Government Organization and Employees. As to the compensation of such personnel, sections 1202 and 1204 of the Classification Act of 1949, 63 Stat. 972, 973, repealed the Classification Act of 1923 and all other laws or parts of laws inconsistent with the 1949 Act. The Classification Act of 1949 was repealed by Pub. L. 89-554, Sept. 6, 1966, § 8(a), 80 Stat. 632, and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5. Section 5102 of Title 5 now contains the applicability provisions of the 1949 Act, and section 5103 of Title 5 authorizes the Civil Service Commission to determine the applicability to specific positions and employees.

AMENDMENTS

1974—Subsec. (j). Pub. L. 93-495 in par. (1) substituted "as otherwise provided in this subsection, until June 30, 1976" for "as provided in paragraph (2), until June 30, 1974" and "which may" for "which shall" and struck out provision relating to approval of pending applications, in par. (2) substituted provision relating to approval of applications for conversion for provision relating to approval of study applications, and added pars. (3) to (6).

1973—Subsec. (j). Pub. L. 93-100 added subsec. (j).

1960—Subsec. (c)(4). Pub. L. 86-507 inserted "or by certified mail" following "registered mail".

1954—Subsec. (c)(4). Act Aug. 2, 1954, § 501(1), provided a method of service of process on the Corporation.

Subsec. (f). Act Aug. 2, 1954, § 802(b), repealed provisions which related to annual reports to Congress and are now covered by section 1437(b) of this title.

1950—Subsecs. (h), (i). Act June 27, 1950, added subsecs. (h) and (i).

1948—Subsec. (c)(5). Act July 3, 1948, added the last sentence to make the expenses of supervisory and other examinations nonadministrative expenses.

1935—Subsec. (c)(5). Act May 28, 1935, added sentence relating to the free use of United States mails

and the determination and payment of necessary expenditures.

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-100 effective on the thirtieth day after Aug. 16, 1973 see section 8 of Pub. L. 93-100, set out as a note under section 1469 of this title.

TRANSFER OF FUNCTIONS

In text of this section, "the Home Loan Bank Board" was substituted for "a board of trustees, to be composed of five members" in subsec. (a), "its board of trustees" in subsec. (c)(5), and "the board of trustees" in subsec. (d), and second sentence of subsec. (a), providing that the members of the Federal Home Loan Bank Board should constitute the board of trustees of the Corporation, was omitted, by Reorg. Plan No. 3 of 1947, set out in the Appendix to Title 5, Government Organization and Employees. The Plan abolished both the Board of Trustees of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board and transferred their functions to the Home Loan Bank Board created by the Plan. It also consolidated the Federal Savings and Loan Insurance Corporation with other agencies into the Housing and Home Finance Agency and transferred the functions of the Federal Loan Administrator with respect to the Corporation to the Housing and Home Finance Administrator.

ABOLISHMENT OF HOME OWNERS' LOAN CORPORATION

For dissolution and abolishment of the Home Owners' Loan Corporation, referred to in this section, by act June 30, 1953, ch. 170, § 21, 67 Stat. 126, see note under former section 1463 of this title.

IMPAIRMENT OR LIMITATION OF FUNCTIONS OR AUTHORITIES OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Functions or authorities vested in or exercisable by Federal Savings and Loan Insurance Corporation before May 25, 1967, not affected or impaired or subjected to any restrictions or limitations by Pub. L. 90-19, see section 28 of Pub. L. 90-19, May 25, 1967, 81 Stat. 29, set out as a note under section 1437 of this title.

CROSS REFERENCES

Annual report of insured institutions in default, see section 1729 of this title.

Annual report of operations to Congress, see sections 1437 of this title.

Federal Savings Loan Insurance Corporation as independent agency, see section 1437 of this title.

Financial control of Corporation, see section 841 et seq. of Title 31, Money and Finance.

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31.

§ 1726. Insurance of accounts and eligibility provisions

(a) Insurance of accounts

It shall be the duty of the Corporation to insure the accounts of all Federal savings and loan associations, and it may insure the accounts of building and loan, savings and loan, and homestead associations and cooperative banks organized and operated according to the laws of the State, District, Territory, or possession in which they are chartered or organized.

(b) Application for insurance; accompanying agreement

Application for such insurance shall be made immediately by each Federal savings and loan association, and may be made at any time by other eligible institutions. Such applications shall be in such form as the Corporation shall prescribe, and shall contain an agreement (1) to pay the reasonable cost of such examinations as the Corporation shall deem necessary in connection with such insurance, and (2) if the insurance is granted, to permit and pay the cost of such examinations as in the judgment of the Corporation may from time to time be necessary for its protection and the protection of other insured institutions, to permit the Corporation to have access to any information or report with respect to any examination made by any public regulatory authority and to furnish any additional information with respect thereto as the Corporation may require, and to pay the premium charges for insurance as hereinafter provided. Each applicant for such insurance shall also file with its application an agreement that during the period that the insurance is in force it will not make any loans beyond one hundred miles from its principal office, except (1) loans in the area beyond such one-hundred-mile limit in which it was operating prior to June 27, 1934, and (2) loans which are made pursuant to regulations of the Corporation: *Provided,* That such agreement shall further provide that any loan made beyond fifty miles from the applicant's principal office (and outside the territory in which it was operating on such date) shall also be subject to such regulations; will not, after it becomes an insured institution, issue securities which guarantee a definite return or which have a definite maturity except with the specific approval of the Corporation, or issue any securities the form of which has not been approved by the Corporation; will not carry on any sales plan or practices, or any advertising, in violation of regulations to be made by the Corporation; will provide adequate reserves satisfactory to the Corporation, to be established in accordance with regulations made by the Corporation, before paying dividends to its insured members; but such regulations shall require the building up of reserves to 5 per centum of all insured accounts within a reasonable period, not exceeding twenty years, and shall prohibit the payment of dividends from such reserves, or the payment of any dividends if any losses are chargeable to such reserves: *Provided,* That the Corporation may extend the twenty-year limitation hereinabove prescribed by not more than ten years in the case of any insured institution if it determines such action to be necessary to meet mortgage needs: *Provided further,* That for any year dividends may be declared and paid when losses are chargeable to such reserves if the declaration of such dividends in such case is approved by the Corporation. As used in this subsection the term "reserves" shall, to such extent as the Corporation may provide, include capital stock and other items, as defined by the Corporation.

(c) Rejection of application; certificate on approval

The Corporation shall reject the application of any applicant if it finds that the capital of

the applicant is impaired or that its financial policies or management are unsafe; and the Corporation may reject the application of any applicant if it finds that the character of the management of the applicant or its home financing policy is inconsistent with economical home financing or with the purposes of this subchapter. Upon the approval of any application for insurance the Corporation shall notify the applicant, and upon the payment of the initial premium charge for such insurance, as provided in section 1727 of this title, the Corporation shall issue to the applicant a certificate stating that it has become an insured institution. In considering applications for such insurance the Corporation shall give full consideration to all factors in connection with the financial condition of applicants and insured institutions, and shall have power to make such adjustments in their financial statements as the Corporation finds to be necessary.

(d) Admission fee

Any institution which applies after August 11, 1955 for insurance under this subchapter shall pay, in the event its application is approved, an admission fee in such amount as the Corporation shall determine, taking into consideration the total cost of processing all insurance applications.

(June 27, 1934, ch. 847, title IV, § 403, 48 Stat. 1257; May 28, 1935, ch. 150, §§ 23, 24, 49 Stat. 298; July 14, 1952, ch. 723, § 10(a)(5), 66 Stat. 604; Aug. 11, 1955, ch. 783, title I, § 111, 69 Stat. 641; Sept. 2, 1964, Pub. L. 88-560, title IX, § 901(b), 78 Stat. 804; July 24, 1970, Pub. L. 91-351, title VII, § 707, 84 Stat. 463; Oct. 28, 1974, Pub. L. 93-495, title I, § 105(a), 88 Stat. 1503.)

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-495 added provision defining the term "reserves".

1970—Subsec. (b). Pub. L. 91-351 added the proviso authorizing the Corporation to extend the twenty-year limitation prescribed in the first proviso by not more than ten years in the case of any insured institution if it determines such action to be necessary to meet mortgage needs.

1964—Subsec. (b). Pub. L. 88-560 substituted in the third sentence provision prohibiting the making of loans beyond one hundred miles from the applicant's principal office for former fifty miles restriction, incorporated existing provisions in clauses (1) and (2), substituted a one-hundred-mile limit for a fifty-mile limit in clause (1), and added the proviso for subjecting loans made beyond fifty miles from applicant's principal office to the regulations of the Corporation.

1955—Subsec. (d). Act Aug. 11, 1955, required institutions to pay an admission fee in such amount as the Corporation determines, taking into consideration the total cost of processing all applications.

1952—Subsec. (a). Act July 14, 1952, substituted "Territory, or possession" for "Territory".

1935—Subsec. (b). Act May 28, 1935, § 23, inserted "twenty years" in last sentence and added the proviso.

Subsec. (d). Act May 28, 1935, § 24, substituted "Corporation" following "fund of the", for "applicant".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1464, 1727, 1730 of this title; title 15 section 18a.

§ 1727. Primary and secondary reserves

(a) Establishment; rules and regulations

(1) The Corporation shall establish a primary reserve which shall be the general reserve of the Corporation and a secondary reserve to which shall be credited the amounts of the prepayments made by insured institutions pursuant to former provisions of subsection (d) of this section and the credits made pursuant to the first sentence of subsection (e) of this section.

(2) The Corporation may accomplish the purposes and provisions of this section by rules, regulations, orders, or otherwise as it may consider necessary or appropriate.

(b) Premiums for insurance; amount; time of payment; waiver

(1) Each institution whose application for insurance is approved by the Corporation shall pay to the Corporation, in such manner as it shall prescribe, a premium for such insurance equal to one-twelfth of 1 per centum of the total amount of all accounts of the insured members of such institution. Such premium shall be paid at the time the certificate is issued by the Corporation under section 1726 of this title, and thereafter annually, except that under regulations prescribed by the Corporation such premium may be paid semiannually.

(2) If, at the close of any December 31, the primary reserve equals or exceeds 2 per centum of the total amount of all accounts of insured members of all insured institutions as of such close, no premium under paragraph (1) of this subsection shall be payable by any insured institution with respect to its premium year beginning during the year commencing on May 1 next succeeding such December 31, except that the foregoing provisions of this sentence shall not be applicable to any insured institution with respect to any of the twenty premium years beginning with the premium year commencing with the date on which such certificate is issued.

(c) Additional premiums to equal losses and expenses; limitations

The Corporation is further authorized to assess against each insured institution additional premiums for insurance until the amount of such premiums equals the amount of all losses and expenses of the Corporation; except that the total amount so assessed in any one year against any such institution shall not exceed one-eighth of 1 per centum of the total amount of the accounts of its insured members.

(d) Prepayment of future premiums prohibited; closure of secondary reserve; definitions; reduction of pro rata share of secondary reserve; adjustment of premiums already made

(1)(A) The Corporation shall not, on or after August 16, 1973, accept or receive further payments in the nature of prepayments of future premiums as was formerly required by this subsection (including any such payments which have accrued or are payable under such former provisions). When no insured institution has any pro rata share of the secondary reserve, other than any such share immediately payable to it, the Corporation may take such steps as it

may deem appropriate to close out and discontinue the secondary reserve.

(B)(i) As used in this subparagraph (B), "minimum net reduction year" means a year in which, at the close of December 31, the aggregate of the primary reserve and secondary reserve equals or exceeds 1¼ per centum of the total amount of all accounts of insured members of all insured institutions, and "beginning balance" means, with respect to each insured institution, the amount of such institution's pro rata share, if any, of the secondary reserve as of the close of December 31, 1973, plus any amount or amounts which, after such close, shall have been transferred to such institution under the last sentence of subsection (e) of this section.

(ii) In May of each year succeeding each of the first ten minimum net reduction years occurring after December 31, 1973, the Corporation shall reduce the amount of each insured institution's pro rata share, if any, of the secondary reserve as of the preceding December 31 by making to the extent available, a cash refund to each such institution of the difference, if any, between such pro rata share and the applicable percentage of its beginning balance prescribed in the following table:

Minimum net reduction year:	Percent of beginning balance
1	98.1818182
2	94.5454546
3	89.0909091
4	81.8181818
5	72.7272727
6	61.8181818
7	49.0909091
8	34.5454546
9	18.1818182
10	0.0000000

(2) The Corporation may provide for the adjustment of payments made under former provisions of this subsection or made or to be made under subsections (b) and (c) of this section in cases of merger or consolidation, transfer of bulk assets or assumption of liabilities, and similar transactions, as defined by the Corporation for the purposes of this paragraph.

(e) Credits to secondary reserve; availability for losses; assignment or transfer of share of reserve

The Corporation shall credit to the secondary reserve, as of the close of each calendar year a return on the outstanding balances of the secondary reserve, during such calendar year, as determined by the Corporation, at a rate equal to the average annual rate of return to the Corporation during the year ending at the close of November 30 of such calendar year, as determined by the Corporation, on the investments held by the Corporation in obligations of, or guaranteed as to principal and interest by, the United States. Except as provided in subsections (f) and (g) of this section, the secondary reserve shall be available to the Corporation only for losses of the Corporation and shall be so available only to such extent as other accounts of the Corporation which are available therefore are insufficient for such losses. No right, title, or interest of any institution in or with respect to its pro rata share of the secondary reserve shall be assignable or transferable whether by operation of law or otherwise, except to such extent as the Corporation may provide for transfer of such pro rata share in cases of merger or consolidation, transfer of bulk assets or assumption of liabilities, and similar transactions, as defined by the Corporation for purposes of this sentence.

(f) Appointment of legal custodian on termination of status as an insured institution; distribution of share of secondary reserve

If (i) the status of an insured institution as an insured institution is terminated pursuant to any provision of section 1730 of this title or the insurance of accounts of an insured institution is otherwise terminated, (ii) a conservator, receiver, or other legal custodian is appointed for an insured institution under the circumstances and for the purpose set forth in subsection (d) of section 1724 of this title, or (iii) the Corporation makes a determination that for the purposes of this subsection an insured institution has gone into liquidation, the Corporation shall pay in cash to such institution its pro rata share of the secondary reserve, in accordance with such terms and conditions as the Corporation may prescribe, or, at the option of the Corporation, the Corporation may apply the whole or any part of the amount which would otherwise be paid in cash toward the payment of any indebtedness or obligation, whether matured or not, of such institution to the Corporation, then existing or arising before such payment in cash: *Provided,* That such payment or such application need not be made to the extent that the provisions of the exception in the last sentence of subsection (e) of this section are applicable.

(g) Use of pro rata share of secondary reserve towards premium; cash distribution of shares of secondary reserve

If, at the close of December 31 in any year after 1971, the aggregate of the primary reserve and the secondary reserve equals or exceeds 1¼ per centum of the total amount of all accounts of insured members of all insured institutions but the primary reserve does not equal or exceed 2 per centum of such base, each insured institution's pro rata share of the secondary reserve shall, during the year beginning with May 1 next succeeding such close, be used, to the extent available, to discharge such institution's obligation for its premium under subsection (b) of this section for the premium year beginning in such year, but only to the extent of such percentage, to be the same for all insured institutions and to be not less than 30 nor more than 70 per centum of such premium, as the Corporation may determine; and the use of such pro rata shares as provided in this sentence shall continue unless and until the next sentence or the last sentence of this subsection shall become operative. If, at the close of any December 31 occurring before the last sentence of this subsection shall become operative, the aggregate of the primary reserve and the secondary reserve is not at least equal to 1¼ per centum of the total amount of all accounts of insured members of all insured institutions, the use of any insured institution's pro rata share of the secondary reserve under the first sentence of this subsection shall terminate with respect to

its premium under subsection (b) of this section for the premium year beginning during the calendar year commencing on May 1, next succeeding such December 31, and such termination shall continue unless and until the first sentence of this subsection shall become operative. If, at the close of any December 31, the primary reserve equals or exceeds such 2 per centum, the Corporation shall, at such time (which shall be the same for all insured institutions and shall not be later than May 1 next succeeding such close) and in such manner as the Corporation shall determine, pay in cash to each insured institution its pro rata share of the secondary reserve.

(h) Federal Home Loan Bank Board requirements for deposits in the Corporation by insured institutions; rate of return; repayment

(1) Each insured institution shall make such deposits in the Corporation as may from time to time be required by call of the Federal Home Loan Bank Board. Any such call shall be calculated by applying a specified percentage, which shall be the same for all insured institutions, to the total amount of all withdrawable or repurchasable shares, investment certificates, and deposits in each insured institution. No such call shall be made unless such Board determines that the total amount of such call, plus the outstanding deposits previously made pursuant to such calls, does not exceed 1 per centum of the total amount of all withdrawable or repurchasable shares, investment certificates, and deposits in all insured institutions. For the purposes of this subsection, the total amounts hereinabove referred to shall be determined or estimated by such Board or in such manner as it may prescribe.

(2) The Corporation shall credit as of the close of each calendar year, to each deposit outstanding at such close, a return on the outstanding balance, as determined by the Corporation, of such deposit during such calendar year, at a rate equal to the average annual rate of return, as determined by the Corporation, to the Corporation during the year ending at the close of November 30 of such calendar year, on the investments held by the Corporation in obligations of, or guaranteed as to principal and interest by, the United States.

(3) The Corporation in its discretion may at any time repay all such deposits, or repay pro rata a portion of each of such deposits, in such manner and under such procedure as the Corporation may prescribe. Any procedure for such pro rata repayment may provide for total repayment of any deposit, if the total repayment of any and all deposits of equal or smaller amount is likewise provided for.

(4) The provisions of subsection (f) of this section and of the last sentence of subsection (e) of this section shall be applicable to deposits under this subsection, and for the purposes of this subsection the references in such subsection (f) and such last sentence to the prepayments and the pro rata shares therein mentioned shall be deemed instead to be references respectively to the deposits under this subsection and the pro rata shares of the holders thereof, and the reference in such subsection (f) to that subsection shall be deemed instead to be a reference to this subsection.

(June 27, 1934, ch. 847, title IV, § 404, 48 Stat. 1258; May 28, 1935, ch. 150, § 25(a), (b), 49 Stat. 298, 299; June 27, 1950, ch. 369, §§ 7, 8, 64 Stat. 259; Sept. 8, 1961, Pub. L. 87-210, §§ 3-6, 75 Stat. 483; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1110(d), 79 Stat. 508; Sept. 21, 1968, Pub. L. 90-505, § 6(a), 82 Stat. 858; Dec. 23, 1969, Pub. L. 91-151, title I, § 6(a), 83 Stat. 375; Dec. 24, 1969, Pub. L. 91-152, title IV, § 416(c)(1), 83 Stat. 401; Dec. 22, 1971, Pub. L. 92-213, § 5, 85 Stat. 776; Aug. 16, 1973, Pub. L. 93-100, § 6, 87 Stat. 344; Oct. 28, 1974, Pub. L. 93-495, title I, § 115, 88 Stat. 1507.)

AMENDMENTS

1974—Subsec. (d)(1). Pub. L. 93-495 designated existing provisions as subpar. (A) and added subpar. (B).

1973—Subsec. (a). Pub. L. 93-100 designated existing provisions as par. (1) and in par. (1) as so designated, substituted "pursuant to former provisions of subsection (d)" for "pursuant to subsection (d)", and added par. (2).

Subsec. (b). Pub. L. 93-100 struck out par. (3), which authorized the Corporation to prescribe rules and regulations.

Subsec. (c). Pub. L. 93-100 struck out "and its creditor obligations" at the end of the subsec.

Subsec. (d). Pub. L. 93-100 substituted provisions that the practice of prepayment of future premiums would be discontinued, that when no insured institution has any pro rata share of the secondary reserve, the Corporation may close out and discontinue the secondary reserve, that the Corporation may provide for the adjustment of payments made prior to the amendment or made or to be made under subsecs. (b) and (c) of this section under certain circumstances, for provisions that insured institutions pay additional premiums in the nature of prepayment with respect to future premiums of the institution in any calendar year in which there was a net account increase.

Subsec. (e). Pub. L. 93-100 incorporated provisions of former subsec. (e) substantially without change.

Subsec. (f). Pub. L. 93-100 in cl. (iii), struck out "the obligation of such institution to make prepayments under subsection (d) of this section, including any prepayments as to which such institution is obligated at the time of such termination appointment, or determination, shall cease and", and "by regulation or otherwise" and eliminated provisions authorizing the Corporation to reinstate the pro rata share of an institution in the Secondary Reserve, and for the payment, waiver, or other treatment in whole or in part of any prepayments.

Subsec. (g). Pub. L. 93-100 in the first sentence, changed the aggregate of the primary reserve and the secondary reserve to 1¼ per cent, struck out provision that insured institutions shall not be obligated to make prepayments under subsec. (d) of this section during the year beginning with May 1 next succeeding such close, substituted "December 31 in any year after 1971" for "any December 31" and "Secondary Reserve shall during the year beginning with May 1 next succeeding such close, be used" for "Secondary Reserve shall be used" and "but only to the extent of such percentage to be the same for all insured institutions and to be not less than 30 nor more than 70 per centum of such premium, as the Corporation may determine" for "and the suspension of obligation to make such prepayments," in the second sentence, substituted "1¼" for "1⅝", eliminated clause designation, and struck out provisions of former cl. (i), and in the third sentence, struck out the restriction that the Corporation shall not accept or receive further prepayments under subsec. (d) of this section.

Subsec. (h). Pub. L. 93-100 struck out "in accordance with such regulations as it may prescribe" in par. (2), "by regulation or otherwise" in par. (3), and "(except the last such reference) and to subsection (d) of this section" in par. (4).

1971—Subsec. (g). Pub. L. 92-213 substituted "1⅝" for "1¾".

1969—Subsec. (b)(1). Pub. L. 91-151, § 6(a)(1), changed the percentage rate of the premium from 1 percent of the total amount of all accounts of the insured members of that institution plus any creditor obligations of such institution to 1 per cent of the total amount of all accounts of the insured members of the institution.

Subsec. (b)(2). Pub. L. 91-151, § 6(a)(2), changed the Primary Reserve limit from 2 per cent of the total amount of all accounts of insured members and creditor obligations of all insured institutions to 2 per cent of the total amount of all accounts of insured members.

Subsec. (c). Pub. L. 91-151, § 6(a)(3), changed the total amount assessed in any year from one-eighth of 1 per cent of the total amount of the accounts of its insured members and its creditor obligations to one-eighth of 1 per cent of the total amount of the accounts of its insured members.

Subsec. (d)(2)(B). Pub. L. 91-152 substituted "1965" for "1966".

Subsec. (g). Pub. L. 91-151, § 6(a)(4), changed the 2 per cent limit of all accounts of insured members and creditor obligations to 2 per cent of all accounts of insured members and further changed the 1¾ per cent of the total amount of all accounts of insured members and creditor obligations of all insured institutions to 1¾ per cent of the total amount of all accounts of insured members.

1968—Subsec. (d). Pub. L. 90-505 expanded the concept of a net account increase, limited the application of the subsec. to calendar years in which insured institutions experience such a net account increase, added a definition of net account increase, placed a floor of 1 per centum of its net account increase under the amount of the additional premium payable by institutions for their first calendar year following the calendar year in which they became insured institutions, and provided for the adjustment of payments in cases of merger, consolidation, transfer of bulk assets, assumption of liabilities, and similar transactions.

1965—Subsec. (h). Pub. L. 89-117 added subsec. (h).

1961—Subsec. (a). Pub. L. 87-210, § 3, added subsec. (a), and redesignated former subsec. (a) as (b).

Subsec. (b). Pub. L. 87-210, § 3, redesignated former subsec. (a) as (b), and amended such subsection to provide that an insured institution shall pay no premium with respect to its premium year beginning on May 1st next succeeding Dec. 31, if at Dec. 31, the Primary Reserve equals or exceeds 2 per centum of all accounts of insured members and creditor obligations of insured institutions, made such provisions inapplicable to insured institutions for any of twenty premium years beginning with the year commencing with the date certificate is issued, authorized the Corporation to prescribe regulations and deleted provisions establishing a reserve fund equal to 5 percent of all insured accounts and creditor obligations, for payment of premiums to maintain this 5 percent reserve, and for the determination of amounts in accounts and creditor obligations. Former subsec. (b) was redesignated (c).

Subsec. (c). Pub. L. 87-210, § 5, redesignated former subsec. (b) as (c). Former subsec. (c), which provided a credit upon future premiums equal to any excess premiums, other than those assessed under former subsec. (b), paid by an insured institution after June 30, 1949, was repealed by Pub. L. 87-210, § 4.

Subsecs. (d) to (g). Pub. L. 87-210, § 6, added subsecs. (d) to (g).

1950—Subsec. (a). Act June 27, 1950, § 7, substituted "one-twelfth" for "one-eighth" following "equal to".

Subsec. (c). Act June 27, 1950, § 8, made the premium reduction of one-eighth to one-twelfth effective June 30, 1949.

1935—Subsec. (a), (b). Act May 28, 1935, § 25(a), substituted "one-eighth" for "one fourth".

Subsec. (c). Act May 28, 1935, § 25(b), added subsec. (c).

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-100 effective on the thirtieth day after Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as a note under section 1469 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 6(a) of Pub. L. 91-151 provided in part that the amendment of subsecs. (b)(1), (b)(2), (c) and (g) of this section by section 6(a) of Pub. L. 91-151 are effective as of the close of December 31, 1969.

Section (6)(a)(1) of Pub. L. 91-151 provided in part that the amendment of subsec. (b)(1) of this section by section (6)(a)(1) of Pub. L. 91-151 shall be applicable also to any then unexpired portion of any then current premium under subsec. (b)(1).

Section 6(a)(4) of Pub. L. 91-151 provided in part that the condition in the first sentence of subsec. (g) shall be deemed to be met as of the close of December 31, 1969 and that the words "such year" in that sentence shall be deemed to include also the year beginning January 1, 1970.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6(b) of Pub. L. 90-505, as amended by Pub. L. 91-152, title IV, § 416(c)(2), Dec. 24, 1969, 83 Stat. 401, provided that: "The amendment made by subsection (a) of this section [amending subsec. (d) of this section] shall be effective only with respect to additional premiums due with respect to calendar years beginning after 1965."

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-210 effective Jan. 1, 1962, see section 7 of Pub. L. 87-210, set out as a note under section 1426 of this title.

SAVINGS PROVISIONS

Section 4 of Pub. L. 87-210 provided in part: "That the repeal effected by this section [of former subsec. (c)] shall not affect any right existing on the effective date of such repeal [Jan. 1, 1962]."

RULES AND REGULATIONS TO IMPLEMENT CHANGE IN PREMIUM RATES

Section 6(b) of Pub. L. 91-151 provided that:

"The Federal Savings and Loan Insurance Corporation is authorized by regulation or otherwise

"(1) to make such provisions as it may deem, advisable with respect to the order in which and the extent to which the components of a pro rata share of its secondary reserve shall be applied or be deemed to have been applied in the case of a reduction of such share through a use under the second sentence of section 404(e) of the National Housing Act [subsec. (e) of this section], or the first sentence of section 404(g) [subsec. (g) of this section], a transfer of part of such share under the third sentence of section 404(e) [subsec. (e) of this section], or otherwise.

"(2) to take such action, including without limitation, such adjustments and refunds and such deferrals of premium payments and other payments, as it may determine to be necessary or appropriate for or in connection with the implementation of this section [amending this section] or other legislation amending or supplementing this section 404 [this section]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1726 of this title.

§ 1728. Payment of insurance; statute of limitations with respect to claims; insurance of public funds

(a) Amount of insurance

Each institution whose application for insurance under this subchapter is approved by the

Corporation shall be entitled to insurance up to the full withdrawal or repurchasable value of the accounts of each of its members and investors (including individuals, partnerships, associations, and corporations) holding withdrawable or repurchasable shares, investment certificates, or deposits, in such institutions; except that no member or investor (other than a member or investor referred to in subsection (d) of this section) of any such institution shall be insured for an aggregate amount in excess of $40,000. For the purpose of clarifying and defining the insurance coverage under this subsection, subsection (d) of this section, and subsection (b) of section 1724 of this title, the Corporation is authorized to define with such classifications and exceptions as it may prescribe, terms used in those subsections and in subsection (c) of section 1724 of this title and the extent of the insurance coverage resulting therefrom.

(b) Default of insured institutions

In the event of a default by any insured institution, payment of each insured account in such insured institution which is surrendered and transferred to the Corporation shall be made by the Corporation as soon as possible either (1) by cash or (2) by making available to each insured member a transferred account in a new insured institution in the same community or in another insured institution in an amount equal to the insured account of such insured member: *Provided,* That the Corporation, in its discretion, may require proof of claims to be filed before paying the insured accounts, and that in any case where the Corporation is not satisfied as to the validity of a claim for an insured account, it may require the final determination of a court of competent jurisdiction before paying such claim.

(c) Statute of limitations

No action against the Corporation to enforce a claim for payment of insurance upon an insured account of an insured institution in default shall be brought after the expiration of three years from the date of default unless, within such three-year period, the conservator, receiver, or other legal custodian of the insured institution shall have recognized such insured account as a valid claim against the insured institution and the claim for payment of insurance shall have been presented to the Corporation and its validity denied, in which event the action may be brought within two years from the date of such denial.

(d) Insurance and investment of public funds

(1) Notwithstanding any limitation in this subchapter or in any other provision of law relating to the amount of deposit insurance available for any one account, in the case of an insured member who is—

(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in an insured institution;

(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in such State;

(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in an insured institution in the District of Columbia; or

(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, or of the Virgin Islands, or of any territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in an insured institution in the Commonwealth of Puerto Rico, the Virgin Islands, or any such territory or possession, respectively;

the account of such insured member shall be insured in an amount not to exceed $100,000 per account.

(2) The Corporation may limit the aggregate amount of funds that may be invested in any insured institution by any insured member referred to in paragraph (1) of this subsection on the basis of the size of any such institution in terms of its assets.

(June 27, 1934, ch. 847, title IV, § 405, 48 Stat. 1259; June 27, 1950, ch. 369, § 9, 64 Stat. 259; Sept. 21, 1950, ch. 967, § 5, 64 Stat. 894; Aug. 2, 1954, ch. 649, title V, § 501(2), 68 Stat. 633; Oct. 16, 1966, Pub. L. 89-695, title III, §§ 302(b), 303(b), 80 Stat. 1055, 1056; Dec. 23, 1969, Pub. L. 91-151, title I, § 8(a)(2), 83 Stat. 375; Oct. 28, 1974, Pub. L. 93-495, title I, §§ 101(b)(2), (3), 103(a)(2), 88 Stat. 1501, 1503; Dec. 26, 1974, Pub. L. 93-541, § 1, 88 Stat. 1739.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-541, § 1(1), substituted "insurance coverage under this subsection, subsection (d) of this section," for "insurance coverage under this subsection".

Pub. L. 93-495, §§ 101(b)(2), 103(a)(2), added "(other than a member or investor referred to in subsection (d) of this section)" after "except that no member or investor", and substituted "$40,000" for "$20,000".

Subsec. (d). Pub. L. 93-541, § 1(2), (3), (4), substituted "this title" for "this subchapter" in par. (1), which for purposes of codification had already been translated as "this subchapter", necessitating no change in text, and added reference to territories and possessions of the United States in two places in par. (1)(iv).

Pub. L. 93-495, § 101(b)(3), added subsec. (d).

1969—Subsec. (a). Pub. L. 91-151 substituted $20,000 for $15,000.

1966—Subsec. (a). Pub. L. 89-695 substituted "$15,000" for "$10,000" and added sentence which, for purpose of clarifying and defining the insurance coverage under subsec. (a) of this section and section 1724(b) of this title, authorized the Corporation to define terms used in those provisions and section 1724(c) of this title and the extent of insurance coverage resulting therefrom, respectively.

1954—Subsec. (c). Act Aug. 2, 1954, added subsec. (c).

1950—Subsec. (a). Act June 27, 1950, substituted "$10,000" for "$5,000".

Subsec. (b). Act Sept. 21, 1950, provided for full cash payment, rather than part cash plus a delayed cash and debenture payment of the balance, to an insured depositor on default of an insured institution as an alternative to transferring the depositor's account to a new insured institution in the same community or to another insured institution and conformed the rest of the payment procedure to that of the Federal Deposit Insurance Corporation.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a) by section 101(b)(2) of Pub. L. 93-495 effective on the thirtieth day beginning after Oct. 28, 1974, see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

For effective date of amendment of subsec. (a) by section 103(a)(2) of Pub. L. 93-495, see section 103(b) and (c) of Pub. L. 93-495, set out as a note under section 1724 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

For effective date of amendment of subsec. (a) of this section by section 8(a)(2) of Pub. L. 91-151, see section 8(b) of Pub. L. 91-151, set out as a note under section 1724 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

For effective date of amendment of subsec. (a) of this section by section 302(b) of Pub. L. 89-695, see section 302(c) of Pub. L. 89-695, set out as a note under section 1724 of this title.

EFFECTIVE DATE OF 1950 AMENDMENT

Section 9 of act June 27, 1950, provided in part: "That this amendment shall become effective only in the event of, and at the same time as, an increase to $10,000 in the maximum deposit insured by the Federal Deposit Insurance Corporation."

CROSS REFERENCES

Power to sue and be sued, see section 1725 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1724, 1725, 1729 of this title.

§ 1729. Liquidation of insured institutions

(a) Availability of accounts; organization of new association

In order to facilitate the liquidation of insured institutions, the Corporation is authorized (1) to contract with any insured institution with respect to the making available of insured accounts to the insured members of any insured institution in default, or (2) to provide for the organization of a new Federal savings and loan association for such purpose subject to the approval of the Federal Home Loan Bank Board.

(b) Powers of Corporation on default of Federal Savings and Loan Associations

In the event that a Federal savings and loan association is in default, the Corporation shall be appointed as conservator or receiver and is authorized as such (1) to take over the assets of and operate such association, (2) to take such action as may be necessary to put it in a sound and solvent condition, (3) to merge it with another insured institution, (4) to organize a new Federal savings and loan association to take over its assets, or (5) to proceed to liquidate its assets in an orderly manner, whichever shall appear to be to the best interests of the insured members of the association in default; and in any event the Corporation shall pay the insurance as provided in section 1728 of this title and all valid credit obligations of such association. The surrender and transfer to the Corporation of an insured account in any such association which is in default shall subrogate the Corporation with respect to such insured account, but shall not affect any right which the insured member may have in the uninsured portion of his account or any right which he may have to participate in the distribution of the net proceeds remaining from the disposition of the assets of such association.

(c) Powers of Corporation and Federal Home Loan Bank Board on default of other institutions

(1) In the event any insured institution other than a Federal savings and loan association is in default, the Corporation shall have authority to act as conservator, receiver, or other legal custodian of such insured institution, and the services of the Corporation are tendered to the court or other public authority having the power of appointment. If the Corporation is so appointed, it shall have the same powers and duties with respect to the insured institution in default as are conferred upon it under subsection (b) of this section with respect to Federal savings and loan associations. If the Corporation is not so appointed it shall pay the insurance as provided in section 1728 of this title, and shall have power (1) to bid for the assets of the insured institution in default, (2) to negotiate for the merger of the insured institution or the transfer of its assets, or (3) to make any other disposition of the matter as it may deem in the best interests of all concerned.

(2) In the event the Federal Home Loan Bank Board determines—

(A) that (i) a conservator, receiver, or other legal custodian (whether or not the Corporation) has been or is hereafter appointed for an insured institution which is not a Federal savings and loan association other than by the Board (whether or not such institution is in default) and that the appointment of such conservator, receiver, or custodian, or any combination thereof, has been outstanding for a period of at least fifteen consecutive days, or (ii) an insured institution (other than a Federal savings and loan association) has been closed by or under the laws of any State;

(B) that one or more of the grounds specified in paragraph (6)(A) of section 1464(d) of this title, existed with respect to such institution at the time a conservator, receiver, or other legal custodian was appointed, or at the time such institution was closed, or exists thereafter during the appointment of the conservator, receiver, or other legal custodian or while the institution is closed; and

(C) that one or more of the holders of withdrawable accounts in such institution is unable to obtain a withdrawal of his account, in whole or in part;

the Board shall have exclusive power and jurisdiction to appoint the Corporation as sole receiver for such institution. As used in this paragraph (2), the term "State" includes the Commonwealth of Puerto Rico, the territories and possessions, and any place subject to the jurisdiction of the United States.

(3) In any case where the Corporation is appointed receiver of an insured institution pursuant to paragraph (2)—

(A) the provisions of section 1464(d) of this title shall be applicable in the same manner and to the same extent as if such institution were a Federal savings and loan association with respect to which the Corporation had been appointed receiver under paragraph (6)

thereof, and the provisions of paragraph (14) of said subsection (d) shall be applicable in the same manner and the same extent that they would be applicable if the insured institution were an institution referred to in the first sentence of said paragraph; and

(B) the Corporation shall have authority to liquidate such institution in an orderly manner or to make such other disposition of the matter as it deems to be in the best interests of the institution, its savers, and the Corporation.

In connection with the liquidation of any such institution, the language "the court or other public authority having jurisdiction over the matter" in subsection (d) of this section shall mean said Board.

(d) Additional powers of Corporation

In connection with the liquidation of insured institutions in default, the Corporation shall have power to carry on the business of and to collect all obligations to the insured institutions, to settle, compromise, or release claims in favor of or against the insured institutions, and to do all other things that may be necessary in connection therewith, subject only to the regulation of the court or other public authority having jurisdiction over the matter.

(e) Reports and records

The Corporation shall make an annual report to the Congress of the operation by it of insured institutions in default, and shall keep a complete record of the administration by it of the assets of such insured institutions which shall be subject to inspection by any officer of any such insured institution or by any other interested party, and, if any such insured institution is operated under the laws of any State, Territory, or possession of the United States, or of the District of Columbia, such annual report shall also be filed with the public authority which has jurisdiction over the insured institution.

(f) Loans and purchases by Corporation

In order to prevent a default in an insured institution or in order to restore an insured institution in default to normal operation as an insured institution, the Corporation is authorized, in its discretion, to make loans to, purchase the assets of, or make a contribution to, an insured institution or an insured institution in default; but no contribution shall be made to any such institution in an amount in excess of that which the Corporation finds to be reasonably necessary to save the expense of liquidating such institution.

(June 27, 1934, ch. 847, title IV, § 406, 48 Stat. 1259; May 28, 1935, ch. 150, §§ 26, 27, 49 Stat. 299; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 2, 1954, ch. 649, title VIII, § 802(c)(2), 68 Stat. 643; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), (b), 69 Stat. 640, 641; July 7, 1968, Pub. L. 90-389, § 6, 82 Stat. 295.)

AMENDMENTS

1968—Subsec. (c). Pub. L. 90-389 designated existing provisions as par. (1) and added pars. (2) and (3).

1955—Subsec. (e). Act Aug. 11, 1955, § 109(b), substituted "Congress" for "Housing and Home Finance Administrator".

1954—Subsec. (e). Act Aug. 2, 1954, substituted "Housing and Home Finance Administrator" for "Congress".

1935—Subsec. (b). Act May 28, 1935, § 26, amended last sentence.

Subsec. (f). Act May 28, 1935, § 27, added subsec. (f).

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955, § 109(a)(3).

"Home Loan Bank Board" was substituted for "Federal Home Loan Bank Board" in subsec. (a) of this section by 1947 Reorg. Plan No. 3. See Transfer of Functions note to section 1725 of this title.

CROSS REFERENCES

Report of operations to Congress, see section 1437 of this title.

§ 1730. Termination of insurance and enforcement provisions

(a) Voluntary termination of insurance

Any insured institution other than a Federal savings and loan association may terminate its status as an insured institution by written notice to the Corporation specifying a date for such termination.

(b) Involuntary termination of insurance; notice and hearing

(1) Whenever, in the opinion of the Corporation, any insured institution has violated its duty as such or is engaging or has engaged in an unsafe or unsound practice in conducting the business of such institution, or is in an unsafe or unsound condition to continue operations as an insured institution, or is violating or has violated an applicable law, rule, regulation, or order, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the institution, or any written agreement entered into with the Corporation, including any agreement entered into under section 1726 of this title, the Corporation shall serve upon the institution a statement with respect to such violations or practices or conditions for the purpose of securing the correction thereof, and shall send a copy of such statement to the appropriate State supervisory authority.

(2) Unless such correction shall be made within one hundred and twenty days after service of such statement, or such shorter period of not less than twenty days after such service as (A) the Corporation shall require in any case where the Corporation determines that its insurance risk with respect to such institution could be unduly jeopardized by further delay in the correction of such violations or practices or conditions, or (B) the appropriate State supervisory authority shall require, or unless within such time the Corporation shall have received acceptable assurances that such correction will be made within a time and in a manner satisfactory to the Corporation, or in the event such assurances are submitted to and accepted by the Corporation but are not carried out in accordance with their terms, the Corporation may, if it shall determine to proceed further, issue and serve upon the institution written notice of intention to terminate the status of the institution as an insured institution.

(3) Such notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices or condition, and shall fix a time and place for a hearing thereon. Such hearing shall be fixed for a date not earlier than thirty days after service of such notice. Unless the institution shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured institution. In the event of such consent, or if upon the record made at any such hearing the Corporation shall find that any violation or unsafe or unsound practice or condition specified in such notice has been established and has not been corrected within the time above prescribed in which to make correction, the Corporation may issue and serve upon the institution an order terminating the status of the institution as an insured institution; but any such order shall not become effective until it is an order which has become final (except in the case of an order of termination issued upon consent, which shall become effective at the time specified therein).

(c) Date of termination of insured status

The effective date of the termination of an institution's status as an insured institution under the foregoing provisions of this section shall be the date specified for such termination in the notice by the institution to the Corporation as provided in subsection (a) of this section, or the date upon which an order of termination issued under subsection (b)(3) of this section becomes effective. The Corporation may from time to time postpone the effective date of the termination of an institution's status as an insured institution at any time before such termination has become effective, but in the case of termination by notice given by the institution such effective date shall be postponed only with the written consent of the institution.

(d) Continuation of insurance; examination; notice to members; payment of premiums

In the event of the termination of an institution's status as an insured institution, insurance of its accounts to the extent that they were insured on the effective date of such termination as hereinabove provided in subsection (c) of this section, less any amounts thereafter withdrawn, repurchased, or redeemed, shall continue for a period of two years, but no investments or deposits made after such date shall be insured. The Corporation shall have the right to examine such institution from time to time during the two-year period aforesaid. Such insured institution shall be obligated to pay, within thirty days after the effective date of such termination, as a final insurance premium, a sum equivalent to twice the last annual insurance premium payable by it. In the event of the termination of insurance of accounts as herein provided the institution which was the insured institution shall give prompt and reasonable notice to all of its insured members that it has ceased to be an insured institution and it may include in such notice the fact that insured accounts, to the extent not withdrawn, repurchased, or redeemed, remain insured for two years from the date of such termination, but it shall not further represent itself in any manner as an insured institution. In the event of failure to give the notice to insured members as herein provided the Corporation is authorized to give reasonable notice.

(e) Cease-and-desist proceedings

(1) If, in the opinion of the Corporation, any insured institution or any institution any of the accounts of which are insured is engaging or has engaged, or the Corporation has reasonable cause to believe that the institution is about to engage, in an unsafe or unsound practice in conducting the business of such institution, or is violating or has violated, or the Corporation has reasonable cause to believe that the institution is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the institution, or written agreement entered into with the Corporation, including any agreement entered into under section 1726 of this title, the Corporation may issue and serve upon the institution a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the institution. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Corporation at the request of the institution. Unless the institution shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing the Corporation shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the Corporation may issue and serve upon the institution an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the institution and its directors, officers, employees, and agents to cease and desist from the same, and, further to take affirmative action to correct the conditions resulting from any such violation or practice.

(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the institution concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Corporation or a reviewing court.

(f) Temporary cease-and-desist orders; enforcement

(1) Whenever the Corporation shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the institution pursuant to subsection (e)(1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipa-

tion of assets or earnings of the institution, or is likely to otherwise seriously prejudice the interest of its insured members or of the Corporation, the Corporation may issue a temporary order requiring the institution to cease and desist from any such violation or practice. Such order shall become effective upon service upon the institution and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Corporation shall dismiss the charges specified in such notice or, if a cease-and-desist order is issued against the institution, until the effective date of any such order.

(2) Within ten days after the institution concerned has been served with a temporary cease-and-desist order, the institution may apply to the United States district court for the judicial district in which the principal office of the institution is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the institution under subsection (e)(1) of this section, and such court shall have jurisdiction to issue such injunction.

(3) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order, the Corporation may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the principal office of the institution is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

(g) Suspension or removal of director or officer; stay of suspension and/or prohibition

(1) Whenever, in the opinion of the Corporation, any director or officer of an insured institution has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the institution, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Corporation determines that the institution has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, the Corporation may serve upon such director or officer a written notice of its intention to remove him from office.

(2) Whenever, in the opinion of the Corporation, any director or officer of an insured institution, by conduct or practice with respect to another insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director or officer, and, whenever, in the opinion of the Corporation, any other person participating in the conduct of the affairs of an insured institution, by conduct or practice with respect to such institution or other insured institution or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such insured institution, the Corporation may serve upon such director, officer, or other person a written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of such institution.

(3) In respect to any director or officer of an insured institution or any other person referred to in paragraph (1) or (2) of this subsection, the Corporation may, if it deems it necessary for the protection of the institution or the interests of its insured members or of the Corporation, by written notice to such effect served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the institution. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Corporation shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the institution of which he is a director or officer or in the conduct of whose affairs he has participated.

(4) A notice of intention to remove a director, officer, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured institution, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the Corporation at the request of (A) such director, officer, or other person and for good cause shown, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition. In the event of such consent, or if upon the record made at any such hearing the Corporation shall find that any of the grounds specified in such notice has been established, the Corporation may issue such orders of suspension or removal from office, and/or prohibition from participation in the conduct of the affairs of the institution, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such institution and the director, officer, or other person

concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Corporation or a reviewing court.

(5) Within ten days after any director, officer, or other person has been suspended from office and/or prohibited from participation in the conduct of the affairs of an insured institution under paragraph (3) of this subsection, such director, officer, or other person may apply to the United States district court for the judicial district in which the principal office of the institution is located, or the United States District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, or other person under paragraph (1) or (2) of this subsection, and such court shall have jurisdiction to stay such suspension and/or prohibition.

(h) Suspension or removal of director or officer charged with felony

Whenever any director or officer of an insured institution, or other person participating in the conduct of the affairs of such institution, is charged in any information, indictment, or complaint authorized by a United States Attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Corporation may, by written notice served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the institution. A copy of such notice shall also be served upon the institution. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Corporation. In the event that a judgment of conviction with respect to such offense is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the Corporation may issue and serve upon such director, officer, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the institution except with the consent of the Corporation. A copy of such order shall also be served upon such institution, whereupon such director or officer shall cease to be a director or officer of such institution. A finding of not guilty or other disposition of the charge shall not preclude the Corporation from thereafter instituting proceedings to remove such director, officer, or other person from office and/or to prohibit further participation in institutional affairs, pursuant to paragraph (1) or (2) of subsection (g) of this section.

(i) Termination of Federal home loan bank membership

Termination under this section or otherwise of the status of an institution as an insured institution shall automatically constitute a removal under section 1426(i) of this title of the institution from Federal home loan bank membership, if at the time of such termination such institution is a member of a Federal home loan bank; and removal of an institution from Federal home loan bank membership under section 1426(i) of this title or otherwise shall automatically constitute an order of termination under this section of the status of such institution as an insured institution, if such institution is at the time of such removal an insured institution.

(j) Hearings and judicial review

(1) Any hearing provided for in this section shall be held in the Federal judicial district or in the territory in which the principal office of the institution is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5. Such hearing shall be private, unless the Corporation, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Corporation has notified the parties that the case has been submitted to it for final decision, the Corporation shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the Corporation may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Corporation may modify, terminate, or set aside any such order with permission of the court.

(2) Any party to the proceeding, or any person required by an order issued under this section to cease and desist from any of the violations or practices stated therein, may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the institution or the director or officer or other person concerned, or an order issued under subsection (h) of this section), by filing in the court of appeals of the United States for the circuit in which the principal office of the institution is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Corporation be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Corporation, and thereupon the Corporation shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of said paragraph (1), be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Corporation. Review

of such proceedings shall be had as provided in chapter 7 of title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28.

(3) The commencement of proceedings for judicial review under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Corporation.

(k) Jurisdiction and enforcement

(1) Notwithstanding any other provision of law, (A) the Corporation shall be deemed to be an agency of the United States within the meaning of section 451 of title 28; (B) any civil action, suit, or proceeding to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy; and (C) the Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district and division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect: *Provided*, That any action, suit, or proceeding to which the Corporation is a party in its capacity as conservator, receiver, or other legal custodian of an insured State-chartered institution and which involves only the rights or obligations of investors, creditors, stockholders, and such institution under State law shall not be deemed to arise under the laws of the United States. No attachment or execution shall be issued against the Corporation or its property before final judgment in any action, suit, or proceeding in any court of any State or of the United States or any territory, or any other court.

(2) The Corporation may, in its discretion, apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the principal office of the institution is located, for the enforcement of any effective and outstanding notice or order issued by the Corporation under this section, and such courts shall have jurisdiction and power to order and require compliance therewith; but except as otherwise provided in this section no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

(*l*) Reporting requirements; control and stock defined

(1) Whenever a change occurs in the outstanding voting stock of any insured institution which will result in control or a change in the control of such institution, the president or other chief executive officer of such institution shall promptly report such facts to the Corporation upon obtaining knowledge of such change. As used in this subsection, the term "control" means the power to directly or indirectly direct or cause the direction of the management or policies of the insured institution. If there is any doubt as to whether a change in ownership or other change in the outstanding voting stock of any insured institution is sufficient to result in control or a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the Corporation.

(2) Whenever an insured institution or an insured bank of the Federal Deposit Insurance Corporation makes a loan or loans secured (or to be secured) by 25 per centum or more of the voting stock of an insured institution, the president or other chief executive officer of the lending insured institution or insured bank shall promptly report such fact to the Corporation upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more, or the stock is of a newly organized insured institution prior to its opening.

(3) The reports required by paragraphs (1) and (2) of this subsection shall contain the following information to the extent that it is known by the person making the report: (A) the number of shares involved, (B) the names of the sellers (or transferors), (C) the names of the purchasers (or transferees), (D) the names of the beneficial owners if the shares are of record in another name or other names, (E) the purchase price, (F) the total number of shares owned by the sellers (or transferors), the purchasers (or transferees) and the beneficial owners both immediately before and after the transaction, and in the case of a loan, (G) the name of the borrower, (H) the amount of the loan, and (I) the name of the institution issuing the stock securing the loan and the number of shares securing the loan. In addition to the foregoing, such reports shall contain such other information as may be available to inform the Corporation of the effect of the transaction upon control of the institution whose stock is involved. The reports required by this subsection shall be in addition to any reports that may be required pursuant to other provisions of law.

(4) Whenever such a change as is described in paragraph (1) of this subsection occurs, the insured institution involved shall report promptly to the Corporation any change or changes, or replacement or replacements, of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or director.

(5) Without limitation by or on the foregoing provisions of this subsection, the Corporation may require insured institutions and individuals or other persons who have or have had any connection with the management of any insured institution, as defined by the Corporation, to provide, in such manner and under such civil penalties (which shall be cumulative to any other remedies) as the Corporation may prescribe, such periodic or other reports and disclosures, including proxy statements and the solicitation of proxies thereby, as the Corporation may determine to be necessary or appropriate for the protection of investors or the Corporation.

(6) As used in this subsection, the term "stock" means such stock or other equity securities or equity interests in an insured institu-

tion, or rights, interests, or powers with respect thereto, regardless of whether such institution is a stock company, a mutual institution, or otherwise, as the Corporation may by regulation define for the purposes of this subsection.

(m) Ancillary provisions; affiliate and member bank defined; subpena power, etc.

(1) In making examinations of insured institutions, examiners appointed by the Federal Home Loan Bank Board shall have power, on behalf of the Corporation, to make such examinations of the affairs of all affiliates of such institutions as shall be necessary to disclose fully the relations between such institutions and their affiliates and the effect of such relations upon such institutions. The cost of examinations of such affiliates shall be assessed against and paid by the institution. For purposes of this subsection, the term "affiliate" shall have the same meaning as where used in section 221a(b) of this title, except that the term "member bank" in said section 221a(b) shall be deemed to refer to an insured institution.

(2) In connection with examinations of insured institutions and affiliates thereof, the Corporation, or its designated representatives, shall have power to administer oaths and affirmations and to examine and to take and preserve testimony under oath as to any matter in respect of the affairs or ownership of any such institution or affiliate thereof, and to issue subpenas and subpenas duces tecum, and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the principal office of the institution or affiliate thereof is located, or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

(3) In the course of or in connection with any proceeding under this section, the Corporation or its designated representatives, including any person designated to conduct any hearing under this section, shall have power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Corporation is empowered to make rules and regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory at any designated place where such proceedings is being conducted. Any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. All expenses of the Board or of the Federal Savings and Loan Insurance Corporation in connection with this section shall be considered as nonadministrative expenses. Any court having jurisdiction of any proceeding instituted under this section by an insured institution, or a director or officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the institution or from its assets.

(n) Notice of service

Any service required or authorized to be made by the Corporation under this section may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Corporation may by regulation or otherwise provide. Copies of any notice or order served by the Corporation upon any State-chartered institution or any director or officer thereof or other person participating in the conduct of its affairs, pursuant to the provisions of this section, shall also be sent to the appropriate State supervisory authority.

(o) Notice to State authorities

In connection with any proceeding under subsection (e), (f)(1), or (g) of this section involving an insured State-chartered institution or any director or officer or other person participating in the conduct of its affairs, the Corporation shall provide the appropriate State supervisory authority with notice of the Corporation's intent to institute such a proceeding and the grounds therefor. Unless within such time as the Corporation deems appropriate in the light of the circumstances of the case (which time must be specified in the notice prescribed in the preceding sentence) satisfactory corrective action is effectuated by action of the State supervisory authority, the Corporation may proceed as provided in this section. No institution or other party who is the subject of any notice or order issued by the Corporation under this section shall have standing to raise the requirements of this subsection as ground for attacking the validity of any such notice or order.

(p) Penalties

(1) Any director or officer, or former director or officer, of an insured institution or an institution any of the accounts of which are insured, or any other person, against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director, officer, or other person under subsection (g)(3), (g)(4), or (h) of this section, and who (A) participates in any manner in the conduct of the affairs of such institution, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote any proxies, consents, or authorizations in respect to any voting rights in such institution, or (B) without the prior written approval of the Corporation, votes for a director or serves or acts as a director, officer, or employee of any insured institution, shall upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

(2) Except with the prior written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured institution who has been convicted, or who is hereafter convicted, of a criminal offense involving

dishonesty or a breach of trust. For each willful violation of this prohibition, the institution involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Corporation may recover by suit or otherwise for its own use.

(q) Definitions

(1) As used in this section—

(A) The terms "cease-and-desist order which has become final" and "order which has become final" means a cease-and-desist order, or an order, issued by the Corporation with the consent of the institution or the director or officer or other person concerned, or with respect to which no petition for review of the action of the Corporation has been filed and perfected in a court of appeals as specified in subsection (j)(2) of this section, or with respect to which the action of the court in which said petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in said subsection, or an order issued under subsection (h) of this section.

(B) The term "State" includes the Commonwealth of Puerto Rico.

(C) The term "territory" includes any possession of the United States and any place subject to the jurisdiction of the United States.

(D) The terms "district", "district court", "district court of the United States," and "judicial district" shall have the meanings defined in section 451 of title 28.

(2) As used in subsection (f) of this section, the term "insolvency" means that the assets of an institution are less than its obligations to its creditors and others, including its members.

(3) As used in subsection (g) of this section, the term "violation" includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(June 27, 1934, ch. 847, title IV, § 407, 48 Stat. 1260; June 27, 1950, ch. 369, § 11, 64 Stat. 259; Aug. 2, 1954, ch. 649, title V, § 501(3), 68 Stat. 633; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640; Oct. 16, 1966, Pub. L. 89-695, title I, § 102(a), 80 Stat. 1036; Oct. 28, 1974, Pub. L. 93-495, title I, § 105(c), 88 Stat. 1504.)

AMENDMENTS

1974—Subsec. (*l*)(5). Pub. L. 93-495 added ", including proxy statements and the solicitation of proxies thereby," following "disclosures".

1966—Subsec. (a). Pub. L. 89-695 designated provisions of first sentence as subsec. (a) and added thereto "specifying a date for such termination".

Subsec. (b). Pub. L. 89-695 added subsec. (b), incorporating and amending generally provisions of second and third sentences in par. (1), fourth and fifth sentences in par. (2), and sixth, seventh, and eighth sentences in par. (3).

Subsec. (c). Pub. L. 89-695 added subsec. (c).

Subsec. (d). Pub. L. 89-695 designated sentences nine through thirteen as subsec. (d), substituting in the present first sentence "an institution's status as an insured institution", "effective date of such termination as hereinbefore provided in subsection (c) of this section" and "after such date" for "such status", "date of such notice by the institution to the Corporation or such order of termination" and "after the date of such notice or order of termination" and deleting therefrom "which reduce the insured accounts of an insured member below the amount insured on the date of such notice or order" following "redeemed", and substituting in the third sentence "the effective date of such termination" and "payable" for "any such notice or order of termination" and "paid".

Subsecs. (e) to (q). Pub. L. 89-695 added subsecs. (e) to (q).

1954—Act Aug. 2, 1954, extended the authority to terminate the insured status of an institution for violation of its duty as such, to the termination thereof for unsafe or unsound practices in conducting its business; and to revise the procedure for terminations.

1950—Act June 27, 1950, amended section generally to omit requirements that insured institution shall give the Corporation ninety days' notice of its intention to terminate its insured status, and that a majority vote of the stockholders is necessary, and to change period of insurance after termination date from five years to two years.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 102(b) of Pub. L. 89-695 provided that: "The amendment made by subsection (a) of this section [to this section] shall be effective only with respect to proceedings commenced on or after the date of enactment of this Act [Oct. 16, 1966]. Section 407 of the National Housing Act [this section] as in effect immediately prior to the date of enactment of this Act [Oct. 16, 1966] shall continue in effect with respect to any proceedings commenced prior to such date."

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91-609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811, repealed section 401 of Pub. L. 89-695 which had provided that: "The provisions of titles I and II of this Act [amending sections 1464, 1730, 1813, 1817 to 1820 and repealing section 77 of this title and enacting provisions set out as notes under sections 1464, 1730, and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted."

CROSS REFERENCES

Enforcement by the Federal Home Loan Bank Board of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, in the case of institutions subject to this section, see section 1607 of Title 15, Commerce and Trade.

CHANGE OF NAME

The name "Home Loan Bank Board" was changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1425, 1425a, 1727, 2804 of this title; title 15 sections 1607, 1691c.

§ 1730a. Regulation of holding companies

(a) Definitions

(1) As used in this section, unless the context otherwise requires—

(A) "insured institution" means a Federal savings and loan association, a building and loan, savings and loan, or homestead association or a cooperative bank, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation;

(B) "uninsured institution" means any association or bank referred to in subparagraph (A) hereof, the accounts of which are not in-

sured by the Federal Savings and Loan Insurance Corporation;

(C) "company" means any corporation, partnership, trust, joint-stock company, or similar organization, but does not include the Federal Savings and Loan Insurance Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an officer of the United States or any State in his official capacity, or by an instrumentality of the United States or any State;

(D) "savings and loan holding company" means any company which directly or indirectly controls an insured institution or controls any other company which is a savings and loan holding company by virtue of this subsection;

(E) "multiple savings and loan holding company" means any savings and loan holding company which directly or indirectly controls two or more insured institutions;

(F) "diversified savings and loan holding company" means any savings and loan holding company whose subsidiary insured institution and related activities as permitted under paragraph (2) of subsection (c) of this section represented, on either an actual or a pro forma basis, less than 50 per centum of its consolidated net worth at the close of its preceding fiscal year and of its consolidated net earnings for such fiscal year (or, during the first year's operation of the section, at such time as the holding company so qualifies), as determined in accordance with regulations issued by the Corporation;

(G) "person" means an individual or company;

(H) "subsidiary" of a person means any company which is controlled by such person, or by a company which is a subsidiary of such person by virtue of this subsection;

(I) "affiliate" of a specified insured institution means any person or company which controls, is controlled by, or is under common control with, such insured institution; and

(J) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(2) For purposes of this section, a person shall be deemed to have control of—

(A) an insured institution if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 per centum of the voting shares of such insured institution, or controls in any manner the election of a majority of the directors of such institution;

(B) any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 per centum of the voting shares or rights of such other company, or controls in any manner the election or appointment of a majority of the directors or trustees of such other company, or is a general partner in or has contributed more than 25 per centum of the capital of such other company;

(C) a trust if the person is a trustee thereof; or

(D) an insured institution or any other company if the Corporation determines, after reasonable notice and opportunity for hearing, that such person directly or indirectly exercises a controlling influence over the management or policies of such institution or other company.

(3) Notwithstanding any other provision of this subsection, the term "savings and loan holding company" does not include—

(A) any company by virtue of its ownership or control of voting shares of an insured institution or a savings and loan holding company acquired in connection with the underwriting of securities if such shares are held only for such period of time (not exceeding one hundred and twenty days unless extended by the Corporation) as will permit the sale thereof on a reasonable basis; and

(B) any trust (other than a pension, profit-sharing, shareholders', voting, or business trust) which controls an insured institution or a savings and loan holding company if such trust by its terms must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, and is (i) in existence on June 26, 1967, or (ii) a testamentary trust created on or after June 26, 1967.

(b) Registration and examination

(1) Within one hundred and eighty days after February 14, 1968, or within ninety days after becoming a savings and loan holding company, whichever is later, each savings and loan holding company shall register with the Corporation on forms prescribed by the Corporation, which shall include such information, under oath or otherwise, with respect to the financial condition, ownership, operations, management, and intercompany relationships of such holding company and its subsidiaries, and related matters, as the Corporation may deem necessary or appropriate to carry out the purposes of this section. Upon application, the Corporation may extend the time within which a savings and loan holding company shall register and file the requisite information.

(2) Each savings and loan holding company and each subsidiary thereof, other than an insured institution, shall file with the Corporation, and the Federal home loan bank of the district in which its principal office is located, such reports as may be required by the Corporation. Such reports shall be made under oath or otherwise, and shall be in such form and for such periods, as the Corporation may prescribe. Each report shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Corporation may require.

(3) Each savings and loan holding company shall maintain such books and records as may be prescribed by the Corporation.

(4) Each savings and loan holding company and each subsidiary thereof shall be subject to such examinations as the Corporation may prescribe. The cost of such examinations shall be assessed against and paid by such holding com-

pany. Examination and other reports may be furnished by the Corporation to the appropriate State supervisory authority. The Corporation shall, to the extent deemed feasible, use for the purposes of this subsection reports filed with or examinations made by other Federal agencies or the appropriate State supervisory authority.

(5) The Corporation shall have power to require any savings and loan holding company, or persons connected therewith if it is not a corporation, to execute and file a prescribed form of irrevocable appointment of agent for service of process.

(6) The Corporation may at any time, upon its own motion or upon application, release a registered savings and loan holding company from any registration theretofore made by such company, if the Corporation shall determine that such company no longer has control of any insured institution.

(c) Holding company activity

Except as otherwise provided in this subsection—

(1) no savings and loan holding company or subsidiary thereof which is not an insured institution shall, for or on behalf of a subsidiary insured institution, engage in any activity or render any services for the purpose or with the effect of evading law or regulation applicable to such insured institution; and

(2) no multiple savings and loan holding company or subsidiary thereof which is not an insured institution shall commence, or continue for more than five years after February 14, 1968, or for more than one hundred and eighty days after becoming a savings and loan holding company or subsidiary thereof (whichever is later), any business activity other than (A) furnishing or performing management services for a subsidiary insured institution, (B) conducting an insurance agency or an escrow business, (C) holding or managing or liquidating assets owned by or acquired from a subsidiary insured institution, (D) holding or managing properties used or occupied by a subsidiary insured institution, (E) acting as trustee under deed of trust, or (F) furnishing or performing such other services or engaging in such other activities as the Corporation may approve or may prescribe by regulation as being a proper incident to the operations of insured institutions and not detrimental to the interests of savings account holders therein. The Corporation may, upon a showing of good cause, extend such time from year to year, for an additional period not exceeding three years, if the Corporation finds such extension would not be detrimental to the public interest.

(d) Prohibited transactions

No savings and loan holding company's subsidiary insured institution shall—

(1) invest any of its funds in the stock, bonds, debentures, notes, or other obligations of any affiliate (other than a service corporation as authorized by law);

(2) accept the stock, bonds, debentures, notes, or other obligations of any affiliate as collateral security for any loan or extension of credit made by such institution;

(3) purchase securities or other assets or obligations under repurchase agreement from any affiliate;

(4) make any loan, discount, or extension of credit to (A) any affiliate, except in a transaction authorized by subparagraph (A) of paragraph (6) of this subsection, or (B) any third party on the security of any property acquired from any such loan, discount, or extension of credit, or any part thereof, are to be paid over to or utilized for the benefit of any affiliated. *Provided, however,* That with the prior written approval of the Corporation, a subsidiary insured institution may make a loan, discount, or extension of credit to a third party on the security of property acquired from a wholly owned affiliate service corporation. The Corporation shall grant approval of any application for approval under this subdivision if, in the opinion of the Corporation, such a loan, discount, or extension of credit would not be detrimental to the interests of savings account holders in the insured institution, or to the insurance risk of the Corporation with respect to such institution, and would not be a means of facilitating the sale of (1) property purchased from any savings and loan holding company or any affiliate thereof other than such service corporation, or (2) property heretofore owned, legally or beneficially, by any savings and loan holding company or affiliate thereof; or

(5) guarantee the repayment of or maintain any compensating balance for any loan or extension of credit granted to any affiliate by any third party;

(6) except with the prior written approval of the Corporation—

(A) engage in any transaction with any affiliate involving the purchase, sale, or lease of property or assets (other than participating interests in mortgage loans to the extent authorized by regulations of the Corporation) in any case where the amount of the consideration involved when added to the aggregate amount of the consideration given or received by such institution for all such transactions during the preceding twelve-month period exceeds the lesser of $100,000 or 0.1 per centum of the institution's total assets at the end of the preceding fiscal year; or

(B) enter into any agreement or understanding, either in writing or orally, with any affiliate under which such affiliate is to (i) render management or advertising services for the institution, (ii) serve as a consultant, adviser, or agent for any phase of the operations of the institution, or (iii) render services of any other nature for the institution, other than those which may be exempted by regulation or order of the Corporation, unless the aggregate amount of the consideration required to be paid by such institution in the future under all such existing agreements or understandings cannot exceed the lesser of $100,000 or 0.1 per centum of the institution's total assets at the end of the preceding fiscal year; or

(C) make any payment to any affiliate under any agreement or understanding hereinabove referred to in subparagraph (B)

where the institution has previously paid to affiliates during the preceding twelve-month period, pursuant to any such agreements or understandings, an amount aggregating in excess of the lesser of $100,000 or 0.1 per centum of the institution's total assets at the end of the preceding fiscal year.

The Corporation shall grant approval under this paragraph (6) if, in the opinion of the Corporation, the terms of any such transaction, agreement, or understanding, or any such payment by such institution, would not be detrimental to the interests of its savings account holders or to the insurance risk of the Corporation with respect to such institution.

(e) Acquisitions

(1) It shall be unlawful for—

(A) any savings and loan holding company directly or indirectly, or through one or more subsidiaries or through one or more transactions—

(i) to acquire, except with the prior written approval of the Corporation, the control of an insured institution or a savings and loan holding company, or to retain the control of such an institution or holding company acquired or retained in violation of this section as heretofore or hereafter in effect;

(ii) to acquire, except with the prior written approval of the Corporation, by the process of merger, consolidation, or purchase of assets, another insured or uninsured institution or a savings and loan holding company, or all or substantially all of the assets of any such institution or holding company;

(iii) to acquire by purchase or otherwise, or to retain for more than one year after February 14, 1968, any of the voting shares of an insured institution not a subsidiary, or of a savings and loan holding company not a subsidiary, or, in the case of a multiple savings and loan holding company, to so acquire or retain more than 5 per centum of the voting shares of any company not a subsidiary which is engaged in any business activity other than those specified in paragraph (2) of subsection (c) of this section; or

(iv) to acquire the control of an uninsured institution, or to retain for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Corporation may upon application by such company extend such one-year period from year to year, for an additional period not exceeding three years, if the Corporation finds such extension is warranted and shall not be detrimental to the public interest;

(B) any other company, without the prior written approval of the Corporation, directly or indirectly, or through one or more subsidiaries or through one or more transactions, to acquire the control of one or more insured institutions, except that such approval shall not be required in connection with the control of an insured institution (i) acquired by devise under the terms of a will creating a trust which is excluded from the definition of "savings and loan holding company" under subsection (a) of this section, or (ii) acquired in connection with a reorganization in which a person or group of persons, having had control of an insured institution for more than three years, vests control of that institution in a newly formed holding company subject to the control of the same person or group of persons. The Corporation shall approve an acquisition of an insured institution under this subparagraph unless it finds the financial and managerial resources and future prospects of the company and institution involved to be such that the acquisition would be detrimental to the institution or the insurance risk of the Corporation, and shall render its decision within ninety days after submission to the Board of the complete record on the application.

(2) The Corporation shall not approve any acquisition under subparagraphs (A)(i) or (A)(ii), or of more than one insured institution under subparagraph (B), of paragraph (1) of this subsection except in accordance with this paragraph. In every case, the Corporation shall take into consideration the financial and managerial resources and future prospects of the company and institution involved, and the convenience and needs of the community to be served, and shall render its decision within ninety days after submission to the Board of the complete record on the application. Before approving any such acquisition, the Corporation shall request from the Attorney General and consider any report rendered within thirty days on the competitive factors involved. The Corporation shall not approve any proposed acquisition—

(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States, or

(B) the effect of which in any section of the country may be substantially to lessen competition, or tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served.

(3) No acquisition shall be approved by the Corporation under this subsection which will—

(A) result in the formation by any company, through one or more subsidiaries or through one or more transactions, of a multiple savings and loan holding company controlling insured institutions in more than one State; or

(B) enable an existing multiple savings and loan holding company to acquire an insured institution the principal office of which is located in a State other than the State which such savings and loan holding company shall designate, by writing filed with the Corporation within sixty days after its registration hereunder, as the State in which the principal savings and loan business of such holding company is conducted.

(4) The provisions of this subsection and of subsections (c)(2) and (g) of this section shall not apply to any savings and loan holding company which acquired the control of an insured institution or of a savings and loan holding company pursuant to a pledge or hypothetication to secure a loan, or in connection with the liquidation of a loan, made in the ordinary course of business, but it shall be unlawful for any such company to retain such control for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Corporation may upon application by such company extend such one-year period from year to year, for an additional period not exceeding three years, if the Corporation finds such extension is warranted and would not be detrimental to the public interest.

(f) Declaration of dividends

Every subsidiary insured institution of a savings and loan holding company shall give the Corporation not less than thirty days' advance notice of the proposed declaration by its directors of any dividend on its guaranty, permanent, or other nonwithdrawable stock. Such notice period shall commence to run from the date of receipt of such notice by the Corporation. Any such dividend declared with such period,[1] or without the giving of such notice to the Corporation, shall be invalid and shall confer no rights or benefits upon the holder of any such stock.

(g) Holding company indebtedness

(1) No savings and loan holding company or any subsidiary thereof which is not an insured institution shall issue, sell, renew, or guarantee any debt security of such company or subsidiary, or assume any debt, without the prior written approval of the Corporation.

(2) The provisions of paragraph (1) of this subsection shall not apply to—

(A) a diversified savings and loan holding company or any subsidiary thereof; or

(B) the issuance, sale, renewal, or guaranty of any debt security, or the assumption of any debt, by any other savings and loan holding company or any subsidiary thereof, if such security or debt aggregates, together with all such other securities or debt then outstanding as to which such holding company or subsidiary is primarily or contingently liable, not more than 15 per centum of the consolidated net worth of such holding company or subsidiary at the end of the preceding fiscal year.

(3) The Corporation shall, upon application, approve any act or transaction not exempted from the application of paragraph (1) of this subsection if the Corporation finds that—

(A) the proceeds of any such act or transaction will be used for (i) the purchase of permanent, guaranty, or other nonwithdrawable stock to be issued by a subsidiary insured institution, or (ii) the purpose of making a capital contribution to a subsidiary insured institution; or

(B) such act or transaction is required for the purpose of refunding, extending, exchanging, or discharging an outstanding debt security, or for other necessary or urgent corporate needs, and would not impose an unreasonable or imprudent financial burden on the applicant.

The Corporation may also approve any application under this paragraph if it finds that the act or transaction would not be injurious to the operation of any subsidiary insured institution in the light of its financial condition and prospects.

Applications filed with the Corporation pursuant to this subsection shall be in such form and contain such information as the Corporation may prescribe.

(4) If a State authority or any other agency of the United States, having jurisdiction of any act or transaction within the scope of paragraph (1) of this subsection, shall inform the Corporation, upon request by the Corporation for an opinion or otherwise, that State or Federal laws applicable thereto have not been complied with, the Corporation shall not approve such act or transaction until and unless the Corporation is satisfied that such compliance has been effected.

(5) As used in this subsection, the term "debt security" includes any note, draft, bond, debenture, certificate of indebtedness, or any other instrument commonly used as evidence of indebtedness, or any contract or agreement under the terms of which any party becomes, or may become, primarily or contingently liable for the payment of money, either in the present or at a future date.

(6)(A) If the Corporation finds that a diversified savings and loan holding company does not meet the test prescribed in subparagraph (B) of this paragraph, such holding company or any subsidiary thereof may not accept, use, or receive the benefit of any dividend on stock from a subsidiary insured institution, and such institution may not declare or pay any dividend on its stock to such holding company or subsidiary, unless the Corporation fails to object, within thirty days of receipt of notification under subsection (f) of this section, to such dividend as being injurious to the insured institution in the light of its financial condition and prospects.

(B) The prohibition of subparagraph (A) of this paragraph shall not apply to a diversified savings and loan holding company or any subsidiary thereof if, excluding its subsidiary insured institution, its consolidated net income available for interest for its preceding fiscal year was twice its consolidated debt service requirements for the twelve-month period next succeeding such fiscal year, as determined in accordance with regulations issued by the Corporation.

(h) Administration and enforcement

(1) The Corporation is authorized to issue such rules, regulations, and orders as it deems necessary or appropriate to enable it to administer and carry out the purposes of this section, and to require compliance therewith and prevent evasions thereof.

(2) The Corporation may make such investigations as it deems necessary or appropriate to determine whether the provisions of this sec-

[1] So in original. Probably should be "dividend declared within such period".

tion, and rules, regulations, and orders thereunder, are being and have been complied with by savings and loan holding companies and subsidiaries and affiliates thereof. For the purpose of any investigation under this section, the Corporation or its designated representatives shall have power to administer oaths and affirmations, to issue subpenas and subpenas duces tecum, to take evidence, and to require the production of any books, papers, correspondence, memorandums, or other records which may be relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in any State or in any territory. The Corporation may apply to the United States district court for the judicial district or the United States court in any territory in which any witness or company subpenaed resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith.

(3)(A) In the course of or in connection with any proceeding under subsection (a)(2)(D) of this section, the Corporation or its designated representatives, including any person designated to conduct any hearing under said subsection, shall have power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and the Corporation is empowered to make rules and regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this paragraph may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted. Any party to such proceedings may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(B) Any hearing provided for in subsection (a)(2)(D) of this section shall be held in the Federal judicial district or in the territory in which the principal office of the institution or other company is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5.

(4) Whenever it shall appear to the Corporation that any person is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this section or of any rule, regulation, or order thereunder, the Corporation may in its discretion bring an action in the proper United States district court, or the United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce compliance with this section or any rule, regulation, or order thereunder, or to require the divestiture of any acquisition in violation of this section, or for any combination of the foregoing, and such courts shall have jurisdiction of such actions, and upon a proper showing an injunction, decree, restraining order, order of divestiture, or other appropriate order shall be granted without bond.

(5) All expenses of the Federal Home Loan Bank Board or of the Corporation under this section shall be considered as nonadministrative expenses.

(i) Prohibited acts

It shall be unlawful for—

(1) any savings and loan holding company or subsidiary thereof, or any director, officer, employee, or person owning, controlling, or holding with power to vote, or holding proxies representing, more than 25 per centum of the voting shares, of such holding company or subsidiary, to hold, solicit, or exercise any proxies in respect of any voting rights in an insured institution which is a mutual institution;

(2) any director or officer of a savings and loan holding company, or any person owning, controlling, or holding with power to vote, or holding proxies representing, more than 25 per centum of the voting shares of such holding company (A), except with the prior approval of the Corporation, to serve at the same time as a director, officer, or employee of an insured institution or another savings and loan holding company, not a subsidiary of such holding company, or (B) to acquire control, or to retain control for more than two years after February 14, 1968, of any insured institution not a subsidiary of such holding company; or

(3) any individual, except with the prior approval of the Corporation, to serve or act as a director, officer, or trustee of, or become a partner in, any savings and loan holding company after having been convicted of any criminal offense involving dishonesty or breach of trust.

(j) Penalties

(1) Any company which willfully violates any provision of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than $1,000 for each day during which the violation continues.

(2) Any individual who willfully violates or participates in a violation of any provision of this section, or any rule, regulation, or order thereunder, shall upon conviction be fined not more than $10,000 or imprisoned not more than one year, or both.

(3) Every director, officer, partner, trustee, agent, or employee of a savings and loan holding company shall be subject to the same penalties for false entries in any book, report, or statement of such savings and loan holding company as are applicable to officers, agents, and employees of an institution the accounts of which are insured by the Corporation for false entries in any books, reports, or statements of such institution under section 1006 of title 18.

(k) Judicial review

Any party aggrieved by an order of the Corporation under this section may obtain a review of such order by filing in the court of appeals of the United States for the circuit in which the principal office of such party is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Corporation be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Corporation, and thereupon the Corporation shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Corporation. Review of such proceedings shall be had as provided in chapter 7 of title 5. The judgement and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28.

(*l*) Savings provision

Nothing contained in this section, other than mergers or acquisitions approved under subsection (e)(2) of this section, shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any act, action, or conduct in violation of the antitrust laws.

(June 27, 1934, ch. 847, title IV, § 408, as added Sept. 23, 1959, Pub. L. 86-374, 73 Stat. 691, and amended Sept. 13, 1960, Pub. L. 86-746, 74 Stat. 883; Oct. 16, 1966, Pub. L. 89-695, title I, § 103, 80 Stat. 1046; Feb. 14, 1968, Pub. L. 90-255, § 2, 82 Stat. 5; Oct. 21, 1968, Pub. L. 90-608, title IV, § 403, 82 Stat. 1194; July 24, 1970, Pub. L. 91-351, title VII, § 705, 84 Stat. 462; Dec. 31, 1970, Pub. L. 91-609, title IX, § 920, 84 Stat. 1816.)

AMENDMENTS

1970—Subsec. (c)(2). Pub. L. 91-351 substituted "five years after February 14, 1968" for "two years after February 14, 1968".

Subsec. (d)(4)(B). Pub. L. 91-609 added proviso for subsidiary insured institution loans, discounts, or extensions of credit to third party on security of property acquired from a wholly owned affiliate service corporation and provided for approval by the Corporation of an application for approval under this subdivision when not detrimental to interest of savings account holders in the insured institution, or to insurance risk of the Corporation with respect to such institution and when not a means of facilitating certain sales.

1968—Subsec. (a)(1). Pub. L. 90-255 added subpars. (A), (B), and (D) to (J), designated as subpar. (C) the definition of "company" formerly comprising the entire subsec. (a)(1), and, in subpar. (C) as so redesignated, added "partnership" and substituted "joint-stock company" for "association" and "trust" for "business trust" to the list of business organizations included within the term "company" and, in the list of business organizations specifically excluded from the term "company", substituted "any Federal home loan bank" for "any partnership" and added companies the majority of the shares of which is owned by an officer of the United States or any State in his official capacity or by an instrumentality of the United States or any State.

Subsec. (a)(2). Pub. L. 90-255 substituted provisions describing when, for purposes of the section, a person is deemed to have control of insured institutions and other companies and trusts for provisions defining the term "stock".

Subsec. (a)(3). Pub. L. 90-255 substituted provisions setting out the types of business organizations and trusts specifically excluded from the term "savings and loan holding company" for provisions stating the conditions under which a company would be considered as having control of an institution or other organization.

Subsec. (b). Pub. L. 90-255 substituted provisions for the registration and examination of savings and loan holding companies, the filing of reports, maintenance of books and records, conduct of periodic examinations, appointment of agent for service of process, and release from registration for provisions covering the rejection of applications for insurance, the termination of insurance, and the divestment of control in the case of applicants controlled by any company which also controls any insured institution or any other applicant for insurance.

Subsec. (c). Pub. L. 90-255 substituted provisions restricting the nature of the activities or business which could be conducted by non-insured savings and loan holding companies, including a prohibition against the conduct of activities or services on behalf of insured subsidiaries in order to evade laws and regulations applicable to insured institutions and the conduct of business activities with specified exceptions for provisions prohibiting the acquisition of control of insured institutions except as approved by the Federal Home Loan Bank Board in certain cases.

Subsec. (d). Pub. L. 90-255 substituted provisions listing six types of transactions which savings and loan holding company's subsidiary insured institutions are forbidden to engage in, including specified securities transactions, loan and credit transactions, and other related transactions with affiliates, for provisions allowing acquisitions for a one year period pursuant to a pledge or hypothecation to secure a loan or in connection with the liquidation of a loan.

Subsec. (e)(1)(A)(iv). Pub. L. 90-608 inserted provision authorizing the Corporation upon application by the company to extend the one-year period from year to year, for an additional period not exceeding three years, if the Corporation finds such extension is warranted and not detrimental to the public interest.

Subsec. (e). Pub. L. 90-255 generally reorganized and expanded the coverage of the area of expansion of holding companies formerly covered in subsec. (c) and substituted such reorganized and expanded coverage for provisions which set out the proceedings by the Federal Home Loan Bank Board for divestment of control in the case of companies which had acquired such control in violation of this section and jurisdiction of the United States District Court in such cases.

Subsec. (f). Pub. L. 90-255 substituted provisions requiring the giving of notice to the Federal Savings and Loan Insurance Corporation in the case of the declaration of dividends by subsidiary insured institutions of savings and loan companies for provisions setting out the list of prohibited transactions by insured institutions now covered in an expanded way by subsec. (d).

Subsec. (g). Pub. L. 90-255 added subsec. (g). A former subsec. (g) was repealed by Pub. L. 86-746, Sept. 13, 1960, 74 Stat. 883.

Subsecs. (h) to (*l*). Pub. L. 90-255 added subsecs. (h) to (*l*).

1966—Subsec. (c). Pub. L. 89-695 provided for Board approved transactions as exceptions to prohibition against acquisition of control.

1960—Subsec. (g). Pub. L. 86-746 repealed subsec. (g) which required section to terminate on May 31, 1961, and which also related to a survey, and a report thereon to Congress, by the Federal Home Loan Bank Board on savings and loan holding companies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1725 of this title; title 15 section 18a.

§ 1730b. Investment of certain funds in accounts of insured institutions

The saving accounts and share accounts held by institutions insured by the Corporation, to the extent they are insured by the Corporation, shall be lawful investments and may be accepted as security for all public funds of the United States, fiduciary and trust funds under the authority or control of the United States or any officer or officers thereof, and for the funds of all corporations organized under the laws of the United States (subject to any regulatory authority otherwise applicable), regardless of any limitation of law upon the investment of any such funds or upon the acceptance of security for the investment or deposit of any of such funds.

(June 27, 1934, ch. 847, title IV, § 409, as added Sept. 2, 1964, Pub. L. 88-560, title IX, § 909, 78 Stat. 805.)

§ 1730c. Participation by insured institutions in lotteries and related activities

(a) Prohibited activities

An insured institution may not—

(1) deal in lottery tickets;

(2) deal in bets used as a means or substitute for participation in a lottery;

(3) announce, advertise, or publicize the existence of any lottery;

(4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

An insured institution may not permit—

(1) the use of any part of any of its own offices by any person for any purpose forbidden to the institution under subsection (a) of this section, or

(2) direct access by the public from any of its own offices to any premises used by any person for any purpose forbidden to the institution under subsection (a) of this section.

(c) Definitions

As used in this section—

(1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting.

(2) The term "lottery" includes any arrangement whereby three or more persons (the "participants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection;

(B) a game, race, or contest; or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

(3) the term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(d) Lawful services connected with operation of lottery

Nothing contained in this section prohibits an insured institution from accepting funds from, or performing any lawful services for, a State operating a lottery, or an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Federal Home Loan Bank Board shall prescribe such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(June 27, 1934, ch. 847, title IV, § 410, as added Dec. 15, 1967, Pub. L. 90-203, § 4, 81 Stat. 611.)

EFFECTIVE DATE

Section effective Apr. 1, 1968, see section 6 of Pub. L. 90-203, set out as a note under section 25a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1306.

§ 1730d. Retention of records by insured institutions

The Secretary of the Treasury shall prescribe such regulations as may be appropriate to carry out, with respect to insured institutions, the purposes set forth in section 1829b of this title with respect to insured banks.

(June 27, 1934, ch. 847, title IV, § 411, as added Oct. 26, 1970, Pub. L. 91-508, title I, § 102, 84 Stat. 1116.)

EFFECTIVE DATE

Section effective on the first day of the seventh calendar month which begins after Oct. 26, 1970, except that the Secretary of the Treasury may, by regulation, provide that this section be effective on any date not earlier than the publication of such regulations in the Federal Register and not later than the first day of the 13th calendar month which begins after Oct. 26, 1970, see section 401(a) and (b) of Pub. L. 91-508, set out as a note under section 1051 of title 31, Money and Finance.

ADDITIONAL CRIMINAL PENALTIES

Willful violation of regulations under this section punishable by fine of not more than $10,000 or imprisonment of not more than 5 years, or both, when such willful violation is committed in furtherance of the commission of any violation of federal law punishable by imprisonment of more than 1 year, see section 1957 of this title.

ADMINISTRATIVE PROCEDURE

Administrative procedure and judicial review provisions of subchapter II of chapter 5 and chapter 7 of Title 5, Government Organization and Employees, applicable to all proceedings under this section, see section 1959 of this title.

RESPONSIBILITY FOR COMPLIANCE

Responsibility of the Secretary of the Treasury to assure compliance with requirements of this section, and Secretary's authority to delegate such responsibility to the appropriate bank supervisory agency, or other supervisory agency, see section 1958 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1957, 1958, 1959 of this title; title 31 section 1083.

§ 1730e. Insured institutions

(a) Interest rates

If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

(b) Interest overcharge; forfeiture; interest payment recovery

If the rate prescribed in subsection (a) of this section exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a) of this section, the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a) of this section, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.

(June 27, 1934, ch. 847, title IV, § 412, as added Oct. 29, 1974, Pub. L. 93-501, title II, § 203, 88 Stat. 1559.)

EFFECTIVE DATE

Section applicable to loans made in any state after Oct. 29, 1974, but prior to the earlier of July 1, 1977, or the date of enactment by the state of a law prohibiting the charging of interest at the rates provided in this section, see section 206 of Pub. L. 93-501, set out as a note under section 1831a of this title.

§ 1730f. Disclosures with respect to certain federally related mortgage loans; identity of beneficiary interest as condition for a loan; report to Board

No insured institution shall make any federally related mortgage loan to any agent, trustee, nominee, or other person acting in a fiduciary capacity without the prior condition that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the institution. At the request of the Federal Home Loan Bank Board, the insured institution shall report to the Board on the identity of such person and the nature and amount of the loan.

(June 27, 1934, ch. 847, title IV, § 413, as added Dec. 22, 1974, Pub. L. 93-533, § 11(b), 88 Stat. 1729.)

EFFECTIVE DATE

Section effective 180 days after Dec. 22, 1974, see section 19 of Pub. L. 93-533, set out as a note under section 2601 of this title.

EXEMPTIONS; REGULATIONS

Section 11(c) of Pub. L. 93-533 provided that: "The Federal Deposit Insurance Corporation or the Federal Home Loan Bank Board as appropriate may by regulation exempt classes or types of transactions from the provisions added by this section [this section and section 1831b of this title] if the Corporation or the Board determines that the purposes of such provisions would not be advanced materially by their application to such transactions."

SUBCHAPTER V—MISCELLANEOUS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1702 of this title.

§ 1731. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts June 27, 1934, ch. 847, title V, § 512, 48 Stat. 1265; Feb. 3, 1938, ch. 13, §§ 9, 10, 52 Stat. 24, 25; June 28, 1941, ch. 261, § 10, 55 Stat. 365, related to penalties, and is now covered by sections 493, 657, 709, 1006, and 1008 to 1010 of Title 18, Crimes and Criminal Procedure.

§ 1731a. Denial of benefits in cases of abuses; determination by Secretary; notice and hearing

Notwithstanding any other provision of law, the Secretary is authorized to refuse the benefits of participation (either directly as an insured lender or as a borrower, or indirectly as a builder, contractor, or dealer, or salesman or sales agent for a builder, contractor or dealer) under subchapters I, II, VI, VII, VIII, IX-A, IX-B or X of this chapter to any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) if the Secretary has determined that such person or firm (1) has knowingly or willfully violated any provision of this chapter or of title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38, or of any regulation issued by the Secretary under this chapter or by the Administrator of Veterans' Affairs under said title III, or chapter 37, or (2) has, in connection with any construction, alteration, repair or improvement work financed with assistance under this chapter or under said title III, or chapter 37, or in connection with contracts or financing relating to such work, violated any Federal or State penal statute, or (3) has failed materially to properly carry out contractual obligations with respect to the completion of construction, alteration, repair, or improvement work financed with assistance under this chapter or under title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38. Before any such determination is made any person or firm with respect to whom such a determination is proposed shall be notified in writing by the Secretary and shall be entitled, upon making a written request to the Secretary, to a written notice specifying charges in reasonable

detail and an opportunity to be heard and to be represented by counsel. Determinations made by the Secretary under this section shall be based on the preponderance of the evidence. For the purposes of compliance with this section the Secretary's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

(June 27, 1934, ch. 847, title V, § 512, as added Aug. 2, 1954, ch. 649, title I, § 132, 68 Stat. 610, and amended Sept. 2, 1958, Pub. L. 85-857, § 13(h), 72 Stat. 1265; Sept. 23, 1959, Pub. L. 86-372, title I, § 119, 73 Stat. 665; Nov. 3, 1966, Pub. L. 89-754, title X, § 1020(e), 80 Stat. 1296; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), 81 Stat. 17.)

REFERENCES IN TEXT

Title III of the Servicemen's Readjustment Act of 1944, as amended, referred to in the text, was repealed by Pub. L. 85-857, § 14 (87), Sept. 2, 1958, 72 Stat. 1273, and is now covered by chapter 37 (§ 1801 et seq.) of Title 38, Veterans' Benefits.

PRIOR PROVISIONS

Section constitutes section 512 of act June 27, 1934, as added by act Aug. 2, 1954. An original section 512 of act of June 27, 1934, which related to offenses and penalties, and which was classified to section 1731 of this title, was repealed by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948. See note under former section 1731.

AMENDMENTS

1967—Pub. L. 90-16 substituted "Secretary" for "Commissioner" wherever appearing and "Secretary's" for "Commissioner's", respectively.

1966—Pub. L. 89-754 inserted references to subchapters IX-A and IX-B of this chapter.

1959—Pub. L. 86-372 provided that for the purposes of compliance with this section the Commissioner's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

1958—Pub. L. 85-857 inserted references to chapter 37 of title 38.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as a note preceding Part I of Title 38, Veterans' Benefits.

§ 1731b. Prohibition against use of insured multifamily housing for transient or hotel purposes

(a) Intent of Congress

The Congress declares that it has been its intent since the enactment of this chapter that housing built with the aid of mortgages insured under this chapter is to be used principally for residential use; and that this intent excludes the use of such housing for transient or hotel purposes while such insurance on the mortgage remains outstanding.

(b) Exceptions to prohibition

Notwithstanding any other provisions of this chapter, no new, existing, or rehabilitated multifamily housing with respect to which a mortgage is insured under this chapter shall be operated for transient or hotel purposes unless (1) on or before May 28, 1954, the Secretary has agreed in writing to the rental of all or a portion of the accommodations in the project for transient or hotel purposes (in which case no accommodations in excess of the number so agreed to by the Secretary shall be rented on such basis), or (2) the project covered by the insured mortgage is located in an area which the Secretary determines to be a resort area, and the Secretary finds that prior to May 28, 1954, a portion of the accommodations in the project had been made available for rent for transient or hotel purposes (in which case no accommodations in excess of the number which had been made available for such use shall be rented on such basis).

(c) Certification as to use as requisite for insurance; exceptions to prohibition against insuring

Notwithstanding any other provisions of this chapter, no mortgage with respect to multifamily housing shall be insured under this chapter (except pursuant to a commitment to insure issued prior to August 2, 1954), and (except as to housing coming within the provisions of clause (1) or clause (2) of subsection (b) of this section) no mortgage with respect to multifamily housing shall be insured for an additional term, unless (1) the mortgagor certifies under oath that while such insurance remains outstanding he will not rent, or permit the rental of, such housing or any part thereof for transient or hotel purposes, and (2) the Secretary has entered into such contract with, or purchased such stock of, the mortgagor as the Secretary deems necessary to enable him to prevent or terminate any use of such property or project for transient or hotel purposes while the mortgage insurance remains outstanding.

(d) Enforcement by Secretary

The Secretary is authorized and directed to enforce the provisions of this section by all appropriate means at his disposal, as to all existing multifamily housing with respect to which a mortgage was insured under this chapter prior to August 2, 1954, as well as to all multifamily housing with respect to which a mortgage is hereafter insured under this chapter: *Provided,* That no criminal penalty shall, by reason of enactment of this section, be applicable to the rental or operation of any such existing multifamily housing in violation of any provision of subsection (b) of this section at any time prior to August 2, 1954.

(e) Definitions

As used in this section, (1) the term "rental for transient or hotel purposes" shall have such meaning as prescribed by the Secretary but rental for any period less than thirty days shall in any event constitute rental for such purposes, and (2) the term "multifamily housing" shall mean (i) a property held by a mortgagor upon which there are located five or more single family dwellings, or upon which there is located a two-, three-, or four-family dwelling, or (ii) a property or project covered by mortgage insured or to be insured under section 1713 of this title, under section 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) thereof, under section 1715k of this title if the mortgage is within the provisions of paragraph (3) (B) of subsection (d) thereof, under section

1715*l* of this title if the mortgage is within the provisions of paragraph (3) of subsection (d) thereof, under section 1743, 1748b, or 1750g of this title, or (iii) a project with respect to which an insurance contract pursuant to subchapter VII of this chapter is outstanding.

(f) Investigation after notice of violation; cease order

Promptly after receipt of written notice that any portion of any building is being rented or operated in violation of any provision of this section or of any rule or regulation lawfully issued thereunder, the Secretary shall investigate the existence of the facts alleged in the written notice and shall order such violation, if found to exist, to cease forthwith.

(g) Prosecution by Attorney General for continued violation

If such violation does not cease in accordance with such order, the Secretary shall forward the complaint to the Attorney General of the United States for prosecution of such civil or criminal action, if any, which the Attorney General may find to be involved in such violation.

(h) Judicial procedure for injunction or other order

Whenever he finds a violation of any provision of this section has occurred or is about to occur, the Attorney General shall petition the district court of the United States or the district court of any Territory or other place subject to United States jurisdiction within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation of this section shall be found, for an order enjoining such acts or practices, and upon a showing by the Attorney General that such acts or practices constituting such violation have been engaged in or are about to be engaged in, a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(i) Injunctive relief for hotel owners

Any person owning or operating a hotel within a radius of fifty miles of a place where a violation of any provision of this section has occurred or is about to occur, or any group or association of hotel owners or operators within said fifty-mile radius, at his or their sole charge or cost, may petition any district court of the United States or the district court or any Territory or other place subject to United States jurisdiction within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation of this section shall be found, for an order enjoining such acts or practices, and, upon a showing that such acts or practices constituting such violation have been engaged in or are about to be engaged in, a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted.

(j) Jurisdiction of district courts

The several district courts of the United States and the several district courts of the Territories of the United States or other place subject to United States jurisdiction, within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation shall be found, shall, wheresoever such acts or practices may have been done or committed, have full power and jurisdiction to hear, try, and determine such matter under subsections (h) and (i) of this section.

(June 27, 1934, ch. 847, title V, § 513, as added Aug. 2, 1954, ch. 649, title I, § 132, 68 Stat. 610, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

PRIOR PROVISIONS

Section constitutes section 513 of act June 27, 1934, as added by act Aug. 2, 1954. An original section 513 of act of June 27, 1934, is classified in section 1732 of this title.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b) to (d), (e)(1), (f), and (g) of this section.

§ 1732. Separability provision

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(June 27, 1934, ch. 847, title V, § 513, 48 Stat. 1265.)

PRIOR PROVISIONS

Another section 513 of act June 27, 1934, which was added by act Aug. 2, 1954, ch. 649, title I, § 132, 68 Stat. 610, is classified to section 1731b of this title.

§ 1733. Application of other laws

The provisions of section 1430(a)(1) and 1430b of this title; the seventh paragraph of section 24 of this title; section 371 of this title; subsection (n) of section 207 of title 11; section 606i of title 15, continuing and extending the functions of the Reconstruction Finance Corporation; and all other provisions of law establishing rights under mortgages insured in accordance with the provisions of this chapter, shall be held to apply to such chapter, as amended.

(June 27, 1934, ch. 847, title V, § 514, as added Feb. 3, 1938, ch. 13, § 11, 52 Stat. 26.)

REFERENCES IN TEXT

Section 207 of title 11, referred to in the text, was amended and with other sections incorporated as chapters 10 to 14 of Title 11, Bankruptcy, by act June 22, 1938, ch. 575, § 1, 52 Stat. 840. See note under former section 207 of title 11.

Section 606i of title 15, referred to in the text, was omitted from the Code. See note under former section 606i of Title 15, Commerce and Trade.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

See section 6(a) of Reorg. Plan No. 1 of 1957, effective June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1734. Amendment, extension, or increase of commitment amounts; mortgage conditions

At any time prior to final endorsement for insurance, the Secretary, in his discretion, may amend, extend, or increase the amount of any commitment, provided the mortgage, as finally

endorsed for insurance is eligible for insurance under the provisions of this chapter and the rules and regulations thereunder, in effect at the time the original commitment to insure was issued.

(June 27, 1934, ch. 847, title V, § 515 as added Oct. 25, 1949, ch. 729, § 3, 63 Stat. 906, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

§ 1735. Payment of certain funds to Treasury

The following funds shall be deemed an indebtedness to the United States of the particular insurance fund involved, and the Secretary is authorized and directed to pay the amount of such indebtedness to the Secretary of the Treasury, with simple interest thereon from the date the funds were advanced to the date of final payment at a rate determined by the Secretary of the Treasury, taking into consideration the average rate on outstanding marketable obligations of the United States from the date the funds were advanced until the date of final payment—

(1) funds made available to the Secretary pursuant to the provisions of sections 1705 and 1708 of this title, exclusive of amounts heretofore refunded, (a) for carrying out this subchapter and section 484d of title 48 with respect to mortgages insured under section 1709 of this title where such funds were credited to the general reinsurance account in the Mutual Mortgage Insurance Fund, and (b) for the payment of salaries and expenses with respect to mortgage insurance under sections 1713 and 1715a of this title where such funds were credited to the Housing Insurance Fund;

(2) funds made available to the Secretary pursuant to sections 1737 and 1748a of this title; and

(3) funds made available to the Secretary by the Secretary of the Treasury pursuant to section 1747i of this title.

Payments to the Secretary of the Treasury under this section shall be made in such amounts and at such times as the Secretary determines, after consultations with the Secretary of the Treasury, that funds are available for that purpose, taking into consideration the continued solvency of the funds involved. All payments made pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

(June 27, 1934, ch. 847, title V, § 516, as added June 30, 1953, ch. 170, § 9, 67 Stat. 123, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

REFERENCES IN TEXT

Section 1715a of this title, referred to in par. (1), in the original was a reference to section 210 of the National Housing Act (June 27, 1934, ch. 847, § 210, as added Feb. 3, 1938, ch. 13, § 3, 52 Stat. 22). It was repealed by act June 3, 1939, ch. 175, § 13, 53 Stat. 807. See note under such former section 1715a.

Section 484d of title 48, referred to in the text, which authorized the Federal Housing Commissioner to prescribe a higher maximum for the principal obligation of mortgages, has been omitted from the code as executed.

Sections 1737, 1747i, and 1748a of this title, referred to in the text, were repealed by Pub. L. 89-117, title II, § 1108 (aa), Aug. 10, 1965, 79 Stat. 507.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

§ 1735a. Prepayment of mortgages by nonprofit educational institutions; refunds

(a) Notwithstanding any other provision of this chapter, no adjusted premium charge shall be collected in connection with the payment in full, prior to maturity, of any mortgage insured under this chapter, if the mortgagor certifies to the Secretary that the loan was paid in full by or on behalf of a nonprofit educational institution which intends to use the property for educational purposes.

(b) The Secretary shall refund any adjusted premium charge collected subsequent to July 1, 1962, and prior to September 2, 1964, in connection with the payment in full, prior to maturity, of any mortgage insured under this chapter, if the mortgagor under such mortgage makes the certification prescribed by subsection (a) of this section.

(June 27, 1934, ch. 847, title V, § 517, as added Sept. 2, 1964, Pub. L. 88-560, title I, § 120, 78 Stat. 782, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) and (b) of this section.

§ 1735b. Expenditures to correct or reimburse for structural or other major defects in mortgaged homes

(a) Prior to beginning of construction

The Secretary is authorized, with respect to any property improved by a one- to four-family dwelling approved for mortgage insurance prior to the beginning of construction which he finds to have structural defects, to make expenditures for (1) correcting such defects, (2) paying the claims of the owner of the property arising from such defects, or (3) acquiring title to the property: *Provided*, That such authority of the Secretary shall exist only (A) if the owner has requested assistance from the Secretary not later than four years (or such shorter time as the Secretary may prescribe) after insurance of the mortgage, and (B) if the propriety is encumbered by a mortgage which is insured under this chapter after September 2, 1964.

(b) Mortgages insured on or after August 1, 1968 but prior to January 1, 1973; requirements; reimbursement from seller; insurance fund chargeable

The Secretary is authorized to make expenditures to correct, or to reimburse the owner for the correction of, structural or other major defects which so seriously affect use and livability as to create a serious danger to the life or safety of inhabitants of any one, two, three, or four family dwelling which is covered by a mortgage insured under section 1715z of this title or which is located in an older, declining urban area and is covered by a mortgage in-

sured under section 1709 or 1715*l* of this title on or after August 1, 1968, but prior to January 1, 1973, and which is more than one year old on the date of the issuance of the insurance commitment, if (1) the owner requests assistance from the Secretary not later than one year after the insurance of the mortgage, or, in the case of a dwelling covered by a mortgage insured under section 1709 or 1715*l* of this title the insurance commitment for which was issued on or after August 1, 1968, but prior to January 1, 1973, not more than four months after August 3, 1976, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably be expected to disclose. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for.

(c) Regulations; finality of decision

The Secretary shall by regulations prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section, and his decisions regarding such expenditures or payments, and the terms and conditions under which the same are approved or disapproved, shall be final and conclusive and shall not be subject to judicial review.

(d) Mortgages insured on or after January 1, 1973 but prior to August 1, 1976; requirements; reimbursement from seller; insurance fund chargeable

The Secretary is authorized to make expenditures to correct or to reimburse the owner for the correction of structural or other major defects which so seriously affect use and liveability as to create a serious danger to the life or safety of inhabitants of any one-, two-, three-, or four-family dwelling which is more than one year old on the date of issuance of the insurance commitment, is located in an older, declining urban area, and is covered by a mortgage insured under section 1709 or 1715*l* of this title on or after January 1, 1973, but prior to August 3, 1976, if (1) the owner requests assistance from the Secretary not more than one year after August 3, 1976, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably have been expected to have disclosed. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for.

(e) Report to Congress on effective program for protecting home buyers

The Secretary of Housing and Urban Development is authorized and directed to conduct a full and complete investigation and study and report to Congress, with recommendations, not later than March 1, 1977, with respect to an effective program for protecting home buyers from hidden or undisclosed defects seriously affecting the use and livability of the home, which would be applicable to existing homes financed with mortgages insured under this chapter. In the study and report the Secretary shall particularly investigate the need for, cost and feasible structure of, a national home inspection and warranty program, with respect to such homes, to be operated by the Federal Government out of fees assessed on the home buyer and amortized over a period of two years. The Secretary's report shall also present an analysis of alternative Federal programs to meet these needs, and the cost and means of financing such programs. In the report the Secretary shall also outline administrative steps which can be taken to provide disclosure to purchasers of existing homes financed with mortgages insured under this chapter of the actual condition of the home and the types of repairs or replacements likely to be needed within a period of two years, such as repairs or replacement of furnace, roof or major appliances, based on age and useful life expectancy of such appurtenances.

(June 27, 1934, ch. 847, title V, § 518, as added Sept. 2, 1964, Pub. L. 88-560, title I, § 121, 78 Stat. 783, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Dec. 31 1970, Pub. L. 91-609, title I, § 104, 84 Stat. 1771; Aug. 22, 1974, Pub. L. 93-383, title III, § 306, 88 Stat. 678; July 2, 1975, Pub. L. 94-50, title III, § 302, 89 Stat. 256; Aug. 3, 1976, Pub. L. 94-375, § 9, 90 Stat. 1072.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-375, § 9(a) substituted "not more than four months after August 3, 1976" for "not more than 19 months after August 22, 1974", and provision requiring expenditures be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure and appropriating sums for expenditures not otherwise covered for provision requiring expenditures be made from the Special Risk Insurance Fund.

Subsecs. (d), (e). Pub. L. 94-375, § 9(b), added subsecs. (d) and (e).

1975—Subsec. (b). Pub. L. 94-50 substituted "one, two, three, or four" for "one or two", and "not more than 19 months" for "not more than one year".

1974—Subsec. (b). Pub. L. 93-383 substituted provisions relating to authorization of the Secretary to make expenditures to correct, or to reimburse the owner for the correction of structural or other major defects of covered one or two family dwellings, for provisions relating to the authorization of the Secretary to make expenditures to correct, or to compensate the owner for, structural or other defects of covered single-family dwellings.

1970—Subsec. (b). Pub. L. 91-609 added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 91-609 redesignated former subsec. (b) as (c).

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) and (b) of this section.

§ 1735c. General Insurance Fund

(a) Establishment; purpose; mortgages or loans insurable; transfers to

There is hereby created a General Insurance Fund which shall be used by the Secretary, on and after August 10, 1965, as a revolving fund for carrying out all the insurance provisions of this chapter with the exception of those specified in subsection (e) of this section. All mortgages or loans insured under this chapter pursuant to commitments issued on or after August 10, 1965, except those specified in subsection (e) of this section, and all loans reported for insurance under section 1703 of this title on or after August 10, 1965, shall be insured under the General Insurance Fund. The Secretary shall transfer to the General Insurance Fund—

(1) the assets and liabilities of all insurance accounts and funds, except the Mutual Mortgage Insurance Fund, existing under this chapter immediately prior to August 10, 1965;

(2) all outstanding commitments for insurance issued prior to August 10, 1965, except those specified in subsection (e) of this section;

(3) the insurance on all mortgages and loans insured prior to August 10, 1965, except insurance specified in subsection (e) of this section; and

(4) the insurance of all loans made by approved financial institutions pursuant to section 1703 of this title prior to August 10, 1965.

(b) Expenses chargeable to Fund

The general expenses of the operations of the Department of Housing and Urban Development relating to mortgages and loans which are the obligation of the General Insurance Fund may be charged to the General Insurance Fund.

(c) Deposit or investment of moneys; purchase of debentures

Moneys in the General Insurance Fund not needed for the current operations of the Department of Housing and Urban Development with respect to mortgages and loans which are the obligation of the General Insurance Fund shall be deposited with the Treasurer of the United States to the credit of such Fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the General Insurance Fund or issued prior to August 10, 1965, under other provisions of this chapter, except debentures issued under the Mutual Mortgage Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(d) Credits and charges to Fund

Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage or loan which is the obligation of the General Insurance Fund, the receipts derived from the property covered by such mortgages and loans and from the claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings on the assets of the Fund shall be credited to the General Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such Fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages and loans which are the obligation of such Fund, shall be charged to such Fund.

(e) Restrictions on use of Fund

The General Insurance Fund shall not be used for carrying out the provisions of section 1709(b), (h), and (i) of this title, or the provisions of section 1715e of this title to the extent that they involve mortgages the insurance for which is the obligation of the Cooperative Management Housing Insurance Fund created by section 1715e(k) of this title, or the provisions of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1 and 1715z-2 of this title; and nothing in this section shall apply to or affect any mortgages, loans, commitments, or insurance under such provisions.

(f) Authorization of appropriations

There are authorized to be appropriated to cover losses sustained by the General Insurance Fund not to exceed $500,000,000.

(June 27, 1934, ch. 847, title V, § 519, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 214, 79 Stat. 471, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(1), (3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title I, § 104(c), 82 Stat. 488; Dec. 31, 1970, Pub. L. 91-609, title I, § 117(e), 84 Stat. 1775; Aug. 3, 1976, Pub. L. 94-375, § 10, 90 Stat. 1073.)

AMENDMENTS

1976—Subsec. (f). Pub. L. 94-375 added subsec. (f).

1970—Subsec. (c). Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1968—Subsec. (e). Pub. L. 90-448 prohibited the use of the Fund for carrying out the provisions of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1 and 1715z-2 of this title.

1967—Pub. L. 90-19 substituted wherever appearing "Department of Housing and Urban Development" for "Federal Housing Administration" in subsecs. (b) and (c) of this section and "Secretary" for "Commissioner" in subsecs. (a), (c), and (d) of this section, respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715z-3 of this title.

§ 1735d. Payment of insurance benefits in cash or debentures; borrowing money from Treasury to make payments

(a) Notwithstanding any other provisions of this chapter with respect to the payment of insurance benefits, the Secretary is authorized, in

his discretion, to pay in cash or in debentures any insurance claim or part thereof which is paid on or after August 10, 1965, on a mortgage or a loan which was insured under any section of this chapter either before or after such date. If payment is made in cash, it shall be in an amount equivalent to the face amount of the debentures that would otherwise be issued plus an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(b) The Secretary is authorized to borrow from the Treasury from time to time such amounts as the Secretary shall determine are necessary (1) to make payments in cash (in lieu of issuing debentures guaranteed by the United States, as provided in this chapter) pursuant to the provisions of this section, and (2) to make payments for reinsured losses under subchapter IX-C of this chapter: *Provided, however,* That borrowings to make payments for reinsured and directly insured losses under subchapter IX-C of this chapter shall be limited to $250,000,000 or such further sum as the Congress, by joint resolution, may from time to time determine. Notes or other obligations issued by the Secretary in borrowing under this subsection shall be subject to such terms and conditions as the Secretary of the Treasury may prescribe. Each sum borrowed pursuant to this subsection shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations.

(June 27, 1934, ch. 847, title V, § 520, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 215, 79 Stat. 472, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title XI, § 1104, 82 Stat. 566; Dec. 31, 1970, Pub. L. 91-609, title VI, § 604, 84 Stat. 1791.)

AMENDMENTS

1970—Subsec. (b)(2). Pub. L. 91-609 provided for making payments for directly insured losses and made the limitation provision applicable to such payments.

1968—Subsec. (b). Pub. L. 90-448 empowered the Secretary to borrow to make payments for reinsured losses under subchapter IX-C of this chapter, and limited such borrowing to $250,000,000 or such further sum as Congress may determine.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) and (b) of this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb-13 of this title.

§ 1735e. Acceptance of materials or products used in structures

The Secretary shall adopt a uniform procedure for the acceptance of materials and products to be used in structures approved for mortgages or loans insured under this chapter. Under such procedure any material or product which the Secretary finds is technically suitable for the use proposed shall be accepted. Acceptance of a material or product as technically suitable shall not be deemed to restrict the discretion of the Secretary to determine that a structure, with respect to which a mortgage is executed, is economically sound or an acceptable risk.

(June 27, 1934, ch. 847, title V, § 521, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 216, 79 Stat. 473, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

§ 1735f. Water and sewerage facilities

Notwithstanding any other provision of this chapter, no mortgage which covers new construction shall be approved for insurance under this chapter (except pursuant to a commitment made prior to August 10, 1965) if the mortgaged property includes housing which is not served by a public or adequate community water and sewerage system: *Provided,* That this limitation shall be applicable only to property which is not served by a system approved by the Secretary pursuant to subchapter IX-A of this chapter and which is situated in an area certified by appropriate local officials to be an area where the establishment of public or adequate community water and sewerage systems is economically feasible: *Provided further,* That for purposes of this section the economic feasibility of establishing such public or adequate community water and sewerage systems shall be determined without regard to whether such establishment is authorized by law or is subject to approval by one or more local governments or public bodies.

(June 27, 1934, ch. 847, title V, § 522, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 217(a), 79 Stat. 473, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

§ 1735f-1. Waiver of deduction on assignment of property to Secretary in lieu of foreclosure

Notwithstanding any other provision of this chapter, from and after November 3, 1966, the Secretary, under such terms and conditions as he may approve, may waive all or a part of the 1 per centum deduction otherwise made from insurance benefits with respect to multifamily housing or land development mortgages assigned to him, where the assignment is made at his request in lieu of foreclosure of the mortgage.

(June 27, 1934, ch. 847, title V, § 523, as added Nov. 3, 1966, Pub. L. 89-754, title III, § 312, 80 Stat. 1271.)

§ 1735f-2. Uniform rehabilitation standards for housing within and without urban renewal areas

In determining whether properties should be approved by the Secretary prior to rehabilitation and covered by mortgages insured under subchapter II of this chapter, the Secretary shall apply uniform property standards as between properties located outside urban renewal

areas and those located within urban renewal areas.

(June 27, 1934, ch. 847, title V, § 524, as added Dec. 31, 1970, Pub. L. 91-609, title I, § 116, 84 Stat. 1774.)

§ 1735f-3. Insurance of mortgage proceeds advanced during construction or rehabilitation or prior to final endorsement of project mortgage

The Secretary is authorized to insure mortgage proceeds advanced during construction or rehabilitation or otherwise prior to final endorsement of a project mortgage for the purpose of (1) financing improvements to the property and the purchase of materials and building components delivered to the property, and (2) providing funds to cover the cost of building components where such components have been assembled and specifically identified for incorporation into the property but are located at a site other than the mortgaged property, with such security as the Secretary may require.

(June 27, 1934, ch. 847, title V, § 525, as added Aug. 22, 1974, Pub. L. 93-383, title III, § 301, 88 Stat. 676.)

§ 1735f-4. Promotion of energy saving techniques by Secretary of Housing and Urban Development in insured housing

To the maximum extent feasible, the Secretary of Housing and Urban Development shall promote the use of energy saving techniques through minimum property standards established by him for newly constructed residential housing subject to mortgages insured under this chapter.

(June 27, 1934, ch. 847, title V, § 526, as added Aug. 22, 1974, Pub. L. 93-383, title III, § 305, 88 Stat. 678.)

§ 1735f-5. Prohibition against discrimination on account of sex in extension of mortgage assistance; consideration of combined income of husband and wife for purpose of extending mortgage credit; definitions

(a) [1] No federally related mortgage loan, or Federal insurance, guaranty, or other assistance in connection therewith (under this chapter or any other Act), shall be denied to any person on account of sex; and every person engaged in making mortgage loans secured by residential real property shall consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit in the form of a federally related mortgage loan to a married couple or either member thereof.

(b) For purposes of subsection (a) of this section, the term "federally related mortgage loan" means any loan which—

(1) is secured by residential real property designed principally for the occupancy of from one to four families; and

(2)(A) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is itself regulated by any agency of the Federal Government; or

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary of Housing and Urban Development or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency; or

(C) is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or from any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(D) is made in whole or in part by any "creditor", as defined in section 1602(f) of title 15, who makes or invests in residential real estate loans aggregating more than $1,000,000 per year.

(June 27, 1934, ch. 847, title V, § 527, as added Aug. 22, 1974, Pub. L. 93-383, title VIII, § 808(a), 88 Stat. 728.)

§ 1735g. Mortgage relief for homeowners who are unemployed as result of closing of Federal installation

(a) Definitions

For the purposes of this section—

(1) The term "mortgage" means a mortgage which (A) is insured under this chapter, or (B) secures a home loan guaranteed or insured under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38.

(2) The term "Federal mortgage agency" means—

(A) The Secretary of Housing and Urban Development when used in connection with mortgages insured under this chapter, and

(B) the Administrator of Veterans' Affairs when used in connection with mortgages securing home loans guaranteed or insured under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38.

(3) The term "distressed mortgagor" means an individual who—

(A) was employed by the Federal Government at, or was assigned as a serviceman to, a military base or other Federal installation and whose employment or service at such base or installation was terminated subsequent to November 1, 1964, as the result of the closing (in whole or in part) of such base or installation; and

(B) is the owner-occupant of a dwelling situated at or near such base or installation and upon which there is a mortgage securing a loan which is in default because of the inability of such individual to make payments due under such mortgage.

(b) Application for, issuance and expiration of certificate of moratorium

(1) Any distressed mortgagor, for the purpose of avoiding foreclosure of his mortgage, may apply to the appropriate Federal mortgage agency for a determination that suspension of his obligation to make payments due under such mortgage during a temporary period is necessary in order to avoid such foreclosure.

[1] Subsection (a) designation editorially supplied.

(2) Upon receipt of an application made under this subsection by a distressed mortgagor, the Federal mortgage agency shall issue to such mortgagor a certificate of moratorium if it determines, after consultation with the interested mortgagee, that such action is necessary to avoid foreclosure.

(3) Prior to the issuance to any distressed mortgagor of a certificate of moratorium under paragraph (2), the Federal mortgage agency, the mortgagor, and the mortgagee shall enter into a binding agreement under which—

(A) the mortgagor will be required to make payments to such agency, after the expiration of such certificate, in an aggregate amount equal to the amount paid by such agency on behalf of such mortgagor as provided in subsection (c) of this section, together with interest thereon at a rate not to exceed the rate provided in the mortgage; the manner and time in which such payments shall be made to be determined by the Federal mortgage agency having due regard for the purposes sought to be achieved by this section; and

(B) the Federal mortgage agency will be subrogated to the rights of the mortgagee to the extent of payments made pursuant to such certificate, which rights, however, shall be subject to the prior right of the mortgagee to receive the full amount payable under the mortgage.

(4) Any certificate of moratorium issued under this subsection shall expire on whichever of the following dates is the earliest—

(A) two years from the date on which such certificate was issued;

(B) thirty days after the date on which the mortgagor gives notice in writing to the Federal mortgage agency that he is able to resume his obligation to make payments due under his mortgage; or

(C) thirty days after the date on which the Federal mortgage agency determines that the mortgagor to whom such certificate was issued has ceased to be a distressed mortgagor as defined in subsection (a)(3) of this section.

(c) Notice to mortgagee of assumption of mortgagor's obligation by agency; amount of payments; suspension of payments by mortgagor; prohibition against further action to enforce or collect payments; liability of mortgagor upon expiration of certificate; notice of expiration of certificate

(1) Whenever a Federal mortgage agency issues a certificate of moratorium to any distressed mortgagor with respect to any mortgage, it shall transmit to the mortgagee a copy of such certificate, together with a notice stating that, while such certificate is in effect, such agency will assume the obligation of such mortgagor to make payments due under the mortgage.

(2) Payments made by any Federal mortgage agency pursuant to a certificate of moratorium issued under this section with respect to the mortgage of any distressed mortgagor may include, in addition to the payments referred to in paragraph (1), an amount equal to the unpaid payments under such mortgage prior to the issuance of such certificate, plus a reasonable allowance for foreclosure costs actually paid by the mortgagee if a foreclosure action was dismissed as a result of the issuance of a moratorium certificate. Payments by the Federal mortgage agency may also include payments of taxes and insurance premiums on the mortgaged property as deemed necessary when these items are not provided for through payments to a tax and insurance account held by the interested mortgagee.

(3) While any certificate of moratorium issued under this section is in effect with respect to the mortgage of any distressed mortgagor, no further payments due under the mortgage shall be required of such mortgagor, and no action (legal or otherwise) shall be taken or maintained by the mortgagee to enforce or collect such payments. Upon the expiration of such certificate, the mortgagor shall again be liable for the payment of all amounts due under the mortgage in accordance with its terms.

(4) Each Federal mortgage agency shall give prompt notice in writing to the interested mortgagor and mortgagee of the expiration of any certificate of moratorium issued by it under this section.

(d) Regulations

The Federal mortgage agencies are authorized to issue such individual and joint regulations as may be necessary to carry out this section and to insure the uniform administration thereof.

(e) Fund for extending financial assistance to distressed mortgagors

There shall be in the Treasury (1) a fund which shall be available to the Secretary of Housing and Urban Development for the purpose of extending financial assistance in behalf of distressed mortgagors as provided in subsection (c) of this section, and for paying administrative expenses incurred in connection with such assistance, and (2) a fund which shall be available to the Administrator of Veterans' Affairs for the same purpose, except administrative expenses. The capital of each such fund shall consist of such sums as may, from time to time, be appropriated thereto, and any sums so appropriated shall remain available until expended. Receipts arising from the programs of assistance under subsection (c) of this section shall be credited to the funds from which such assistance was extended. Moneys in either of such funds not needed for current operations, as determined by the Secretary of Housing and Urban Development, or the Administrator of Veterans' Affairs, as the case may be, shall be invested in bonds or other obligations of the United States, or paid into the Treasury as miscellaneous receipts.

(Pub. L. 89-117, title I, § 107(a)-(e), Aug. 10, 1965, 79 Stat. 458; Pub. L. 89-754, title X, § 1012, Nov. 3, 1966, 80 Stat. 1288.)

REFERENCES IN TEXT

Servicemen's Readjustment Act of 1944, referred to in subsec. (a), was act June 22, 1944, ch. 268, 58 Stat. 284, which was repealed by Pub. L. 85-857, § 14(87), Sept. 2, 1958, 72 Stat. 1273, and is now covered by chapter 37 (§ 1801 et seq.) of Title 38, Veterans Benefits.

CODIFICATION

Section was enacted as a part of the Housing and Urban Development Act of 1965, and not as a part of the National Housing Act which comprises this chapter.

AMENDMENTS

1966—Subsec. (a)(2)(A). Pub. L. 89-754 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

Subsec. (a)(3). Pub. L. 89-754 redefined as distressed mortgagor, describing in subpar. (A) such a person as an individual whose employment or military service at a military base or other Federal installation was terminated subsequent to Nov. 1, 1964, as the result of closing of such base or installation, formerly defined as an individual who was unemployed, although willing to work, as the result of the closing of a Federal installation, and providing in subpar. (B) for dwelling situated at or near the base or installation and substituting therein "payments due under such mortgage" for "payments of principal and/or interest under such mortgage".

Subsec. (b)(1). Pub. L. 89-754 substituted "payments due under such mortgage" for "payments of principal and/or interest under such mortgage".

Subsec. (b)(2). Pub. L. 89-754 eliminated former subpar. (A) providing for determination that mortgagor is not in default with respect to any condition or covenant of the mortgage other than requiring the payment of installments of principal and/or interest under the mortgage and incorporated without subpar. designation provision for determination that such action is necessary to avoid foreclosure, formerly providing in subpar. (B) that such action was the only available means of avoiding foreclosure of such mortgage.

Subsec. (b)(3). Pub. L. 89-754 substituted in the introductory text "the Federal mortgage agency, the mortgagor, and the mortgagee shall enter into a binding agreement" for "the Federal mortgage agency shall require such mortgagor to enter into a binding agreement", designated existing provisions as subpar. (A), provided for payment of interest at rate not to exceed the rate provided in the mortgage, and added subpar. (B).

Subsec. (b)(4). Pub. L. 89-754 increased the period from one to two years in subpar. (A), substituted subpar. (B) provision for expiration date as thirty days after date on which mortgagor gives notice in writing to Federal mortgage agency of ability to resume obligation to make payments due under his mortgage for former provision as the date thirty days after date on which mortgagor to whom certificate was issued ceased to be a distressed mortgagor, now incorporated in subpar. (C), redesignated former subpar. (B) as (C), providing therein for a determination by the Federal mortgage agency, and eliminated former subpar. (C) provision for date on which mortgagor becomes in default with respect to any condition or covenant in his mortgage other than that requiring the payment by him of installments of principal and/or interest under the mortgage.

Subsec. (c)(1). Pub. L. 89-754 substituted "payments due under the mortgage" for "payments of principal, and, if so specified in the certificate, of interest, under the mortgage".

Subsec. (c)(2). Pub. L. 89-754 substituted "may include" for "shall include" and "unpaid payments under such mortgage" for "unpaid principal and interest charges which had accrued and subsequent to the date on which such mortgagor became a distressed mortgagor as defined in subsection (a) of this section", and authorized payments of reasonable allowance for foreclosure costs actually paid by the mortgagee if a foreclosure action was dismissed as result of issuance of moratorium certificate and taxes and insurance premiums on mortgaged property as deemed necessary when not provided for through payments to a tax and insurance account held by the interested mortagee.

Subsec. (c)(3). Pub. L. 89-754 substituted "payments due under the mortgage" for "payments of principal, and, if so specified in the certificate, of interest, under the mortgage".

Subsec. (d). Pub. L. 89-754 re-enacted subsec. (d) without change.

Subsec. (e). Pub. L. 89-754 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" in two instances and made fund available for payment of administrative expenses incurred in connection with assistance to distressed mortgagors and unavailable for payment of administrative expenses of the Administrator of Veterans' Affairs.

§ 1735h. Repealed. Pub. L. 89-754, title X, § 1013(j), Nov. 3, 1966, 80 Stat. 1292

Section, Pub. L. 89-117, title I, § 108(a) to (d), (f), Aug. 10, 1965, 79 Stat. 460, 461, provided for acquisition of property at or near military bases which have been ordered to be closed and is now covered by section 3374 of Title 42, The Public Health and Welfare.

SUBCHAPTER VI—WAR HOUSING INSURANCE

AMENDMENTS

1942—Act May 26, 1942, ch. 319, § 14(a), 56 Stat. 305, amended subchapter heading, substituting "War" for "Defense".

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1430, 1702, 1715f, 1731a, 1743 of this title; title 10 section 2678.

§ 1736. Definitions

As used in this subchapter—

(a) The term "mortgage" means a first mortgage on real estate, in fee simple, or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable; or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed; and the term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

(b) The term "mortgagee" includes the original lender under a mortgage, and his successors and assigns approved by the Secretary; and the term "mortgagor" includes the original borrower under a mortgage and his successors and assigns.

(c) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(d) The term "State" includes the several States, and Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(June 27, 1934, ch. 847, title VI, § 601, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 55, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; July 14, 1952, ch. 723, § 10(a)(2), 66 Stat. 603; June 25, 1959, Pub. L. 86-70, § 10(a), 73 Stat. 142; July 12, 1960, Pub. L. 86-624, § 6, 74 Stat. 411; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1960—Subsec. (d). Pub. L. 88-624 eliminated "Hawaii," preceding "Puerto Rico".

1959—Subsec. (d). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii".

1952—Subsec. (d). Act July 14, 1952, inserted "Guam," after "District of Columbia".

SEPARABILITY OF PROVISIONS

Section 9 of act Mar. 28, 1941 provided that: "If any provision of this Act [which enacted this section, former section 1737 and sections 1738, 1739, former section 1740 and sections 1741, and 1742 of this title, and former section 609k of Title 15, Commerce and Trade, and amended sections 371, 1430, 1702, former section 1706 and sections 1707, 1713, and 1715, 1716, 1717 of this title] or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1737. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VI, § 602, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 55, and amended May 26, 1942, ch. 319, § 14(b) 56 Stat. 305; June 30, 1947, ch. 166, title II, § 206(*l*), 61 Stat. 208; 1947 Reorg. Plan No. 3, § 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59, created the War Housing Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1738. Insurance of mortgages

(a) Relief of housing shortage; eligibility; limitations on time and amount

In order to assist in relieving the acute shortage of housing which now exists and to increase the supply of housing accommodations available to veterans of World War II at prices within their reasonable ability to pay, the Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon: *Provided,* That the aggregate amount of principal obligations of all mortgages insured under this subchapter shall not exceed $6,150,000,000 except that with the approval of the President such aggregate amount may be increased to not to exceed $6,650,000,000: *Provided further,* That no mortgage shall be insured under this section after April 30, 1948, except (A) pursuant to a commitment to insure issued on or before April 30, 1948, or (B) a mortgage given to refinance an existing mortgage insured under this section and which does not exceed the original principal amount and unexpired term of such existing mortgage, and no mortgage shall be insured under section 1743 of this title after March 1, 1950, except (i) pursuant to a commitment to insure issued on or before March 1, 1950, or (ii) a mortgage given to refinance an existing mortgage insured under section 1743 of this title and which does not exceed the original principal amount and unexpired term of such existing mortgage: *Provided further,* That no mortgage shall be insured under section 1743 of this title unless the mortgagor certifies under oath that in selecting tenants for the property covered by the mortgage he will not discriminate against any family by reason of the fact that there are children in the family, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certifications to be filed with the Secretary; and violation of any such certification shall be a misdemeanor punishable by a fine of not to exceed $500: *And provided further,* That the Secretary shall, in his discretion, have power to require the availability for rental purposes of properties covered by mortgages insured under this subchapter, in such instances and for such periods of time as he may prescribe.

Notwithstanding the first proviso of this subsection, mortgages may be insured under sections 1744 and 1746 of this title if the aggregate amounts of principal obligations of mortgages insured under said sections plus the aggregate amount of principal obligations of mortgages insured under section 1745 of this title do not exceed the limitation contained in said section 1745 upon the aggregate amount of principal obligations of mortgages insured pursuant to said section.

Notwithstanding the second proviso of this subsection, mortgages otherwise eligible for insurance under section 1743 of this title may be hereafter insured thereunder if the application for such insurance was received by the Department of Housing and Urban Development on or before March 1, 1950, and for such purpose the aggregate amount of principal obligations authorized to be insured under section 1743 of this title is increased by not to exceed $500,000,000.

(b) Eligibility requirements

To be eligible for insurance under this section a mortgage shall—

(1) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(2) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed 90 per centum of the Secretary's estimate of the value (as of the date the mortgage is accepted for insurance), except that as to applications received by the Secretary on or before March 31, 1948, the mortgage may involve a principal obligation in an amount not to exceed 90 per centum of the Secretary's estimate of the necessary current cost (including the land and such initial service charges and such appraisal, inspection, and other fees as the Secretary shall approve); of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, which is approved for mortgage insurance prior to the beginning of construc-

tion. The principal obligation of such mortgage shall in no event, however, exceed—

(A) $5,400 if such dwelling is designed for a single-family residence, or

(B) $7,500 if such dwelling is designed for a two-family residence, or

(C) $9,500 if such dwelling is designed for a three-family residence, or

(D) $12,000 if such dwelling is designed for a four-family residence:

Provided, That the Secretary may, if he finds that at any time or in any particular geographical area it is not feasible, within such limitations of maximum mortgage amounts, to construct dwellings without sacrifice of sound standards of construction, design, or livability, prescribe by regulation or otherwise higher maximum mortgage amounts not to exceed—

(A) $8,100 if such dwelling is designed for a single-family residence, or

(B) $12,500 if such dwelling is designed for a two-family residence, or

(C) $15,750 if such dwelling is designed for a three-family residence, or

(D) $18,000 if such dwelling is designed for a four-family residence.

(3) have a maturity satisfactory to the Secretary but not to exceed twenty-five years from the date of the insurance of the mortgage;

(4) contain complete amortization provisions satisfactory to the Secretary;

(5) bear interest (exclusive of premium charges for insurance) at not to exceed 4 per centum per annum on the amount of the principal obligation outstanding at any time;

(6) provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as herein provided) to amortization of the principal of the mortgage; and

(7) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

(c) Premium charges; payments; acceptance for insurance; preferences; adjustments and refunds

The Secretary is authorized to fix a premium charge for the insurance of mortgages under this subchapter but in the case of any mortgage such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1½ per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this subchapter at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided*, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds, upon the presentation of a mortgage for insurance and the tender of the initial premium charge and such other charges as the Secretary may require, that the mortgage complies with the provisions of this subchapter, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe; but no mortgage shall be accepted for insurance under this subchapter unless the Secretary finds that the project with respect to which the mortgage is executed is an acceptable risk in view of the shortage of housing referred to in this section. In the event that the principal obligation of any mortgage accepted for insurance under this subchapter is paid in full prior to the maturity date, the Secretary is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured under this subchapter until such maturity date; and in the event that the principal obligation is paid in full as herein set forth, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid. The Secretary shall prescribe such procedures as in his judgment are necessary to secure to veterans of World War II, and their immediate families, and to hardship cases as defined by the Secretary, preference or priority of opportunity to purchase or rent properties covered by mortgages insured under this subchapter.

(d) Conclusiveness of insurance contract as to eligibility

Any contract of insurance heretofore or hereafter executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(June 27, 1934, ch. 847, title VI, § 603, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 56, and amended Sept. 2, 1941, ch. 410, 55, Stat. 686; May 26, 1942, ch. 319, §§ 1–4, 14(b), 56 Stat. 301, 305; Mar. 23, 1943, ch. 21, § 1, 57 Stat. 42; Oct. 15, 1943, ch. 259, § 1, 57 Stat. 571; June 30, 1944, ch. 334, 58 Stat. 648; Mar. 31, 1945, ch. 48, § 1, 59 Stat. 47; May 22, 1946, ch. 268, § 10(a)-(d), 60 Stat. 212; June 30, 1947, ch. 163, title I, § 2, 61 Stat. 193; Aug. 5, 1947, ch. 495, § 1, 61 Stat. 777; Dec. 27, 1947, ch. 525, § 1, 61 Stat. 945; Mar. 31, 1948, ch. 165, § 1(a)-(c), 62 Stat. 101; Aug. 10, 1948, ch. 832, title I, § 101(a), (k)(2), 62 Stat. 1268, 1273; Mar. 30, 1949, ch. 42, title III, § 304, 63 Stat. 29; July 15, 1949, ch. 338, title II, § 201(3), 63 Stat. 421; Aug. 30, 1949, ch. 524, 63 Stat. 681; Oct. 25, 1949, ch. 729, § 1(4), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §§ 119, 122, 64

Stat. 57, 59; May 25, 1967, Pub. L. 90-19, § 1(a)(1), (3), (4), (n), 81 Stat. 17, 19.)

AMENDMENTS

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b)(1), (2), (b)(2)(D), (b)(3), (4), (6), (7), (c), and (d) of this section.

Subsec. (a). Pub. L. 90-19, § 1(a)(1), (n), substituted "Department of Housing and Urban Development" for "Federal Housing Administration" and "by" for "in any field office of" following "received", in the third paragraph, respectively.

Subsec. (b)(2). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing.

1950—Subsec. (a). Act Apr. 20, 1950, § 119, added last two pars.

1949—Subsec. (a). Joint Res. Oct. 25, 1949, substituted "$6,150,000,000" for "$5,750,000,000" and "$6,650,000,000" for "$6,150,000,000" in first proviso, and extended section to "March 1, 1950" by substituting the same for "October 31, 1949" in second proviso.

Act Aug. 30, 1949, extended section from "August 31, 1949" to "October 31, 1949".

Act July 15, 1949, extended section from "June 30, 1949" to "August 31, 1949".

Act Mar. 30, 1949, extended section from "March 30, 1949" to "June 30, 1949".

1948—Subsec. (a). Act Aug. 10, 1948, struck out "$5,350,000,000" and inserted in lieu thereof "$5,750,000,000 except that with the approval of the President such aggregate amount may be increased to not to exceed $6,150,000,000", and struck out the second proviso and inserted in lieu thereof the present second proviso.

Act Mar. 31, 1948, increased the insurance authorization from $4,950,000,000 to $5,350,000,000, and provided for an extension from Mar. 31, 1948, to Apr. 30, 1948.

Subsec. (b)(2). Act Mar. 31, 1948, changed the emergency necessary current-cost formula to the appraised-value formula.

Subsec. (c). Act Aug. 10, 1948, struck out of the next to last sentence the words "and a mortgage on the same property is accepted for insurance at the time of such payment".

1947—Subsec. (a). Act Dec. 27, 1947, increased the mortgage obligation from $4,000,000,000 to $4,450,000,000, and increased the amount of obligation from $4,200,000,000 to $4,950,000,000 with the President's approval.

Act Aug. 5, 1947, increased mortgage obligation from $2,800,000,000 to $4,000,000,000 and the amount of obligation from $3,800,000,000 to $4,200,000,000 with the president's approval.

Act June 30, 1947, extended limitation dates in second proviso from June 30, 1947, to Mar. 31, 1948.

1946—Subsec. (a). Act May 22, 1946, amended provisions generally, and among other changes, increased the mortgage obligation from $1,800,000,000 to $2,800,000,000, and extended the limitation date from July 1, 1946, to June 30, 1947.

Subsec. (b)(2). Act May 22, 1946, amended provisions generally, and among other changes, added proviso.

Subsec. (b)(5). Act May 22, 1946, lowered interest rate from 5 to 4 per centum and struck out provision allowing Administrator to increase the rate in certain cases.

Subsec. (c). Act May 22, 1946, substituted "shortage of housing" for "emergency" in the third sentence, and amended last sentence.

1945—Subsec. (a). Act Mar. 31, 1945, increased the limit of obligations from $1,700,000,000 to $1,800,000,000 and extended the limitation date from 1945 to 1946.

1944—Subsec. (a). Act June 30, 1944, substituted "$1,700,000,000" for "$1,600,000,000" and inserted the provision now contained in clause (B).

1943—Subsec. (a). Act Oct. 15, 1943, substituted "$1,600,000,000" for "$1,200,000,000" and "July 1, 1945" for "July 1, 1944".

Act Mar. 23, 1943, substituted "$1,200,000,000" for "$800,000,000" and "July 1, 1944" for "July 1, 1943".

1942—Act May 21, 1942, § 14(b), substituted "War" and "war" for "Defense" and "defense" wherever occurring.

Subsec. (a). Act May 26, 1942, § 1, substituted "$800,000,000" for "$300,000,000", among other changes.

Subsec. (b)(2). Act May 26, 1942, § 2, increased limitations on amount of obligations.

Subsec. (b)(3). Act May 26, 1942, § 3, substituted "twenty-five" for "twenty".

Subsec. (c). Act May 26, 1942, § 4, amended subsec. (3).

1941—Subsec. (a). Act Sept. 2, 1941, substituted "$300,000,000" for "$100,000,000".

EFFECTIVE DATE OF 1949 AMENDMENT

Amendment of subsec. (a) of this section by act July 15, 1949, was made effective as of June 30, 1949, by section 202 of act July 15, 1949.

SEPARABILITY OF PROVISIONS

Separability of act Mar. 28, 1941, see Separability of Provisions note set out under section 1736 of this title.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950, § 122. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

INFLATION SAFEGUARDS

Section 2 of act Dec. 27, 1947, provided: "Title VI of the National Housing Act, as amended [this subchapter], shall be employed to assist in maintaining a high volume of new residential construction without supporting unnecessary or artificial costs. In estimating necessary current cost for the purposes of said title, the Federal Housing Commissioner shall therefore use every feasible means to assure that such estimates will approximate as closely as possible the actual costs of efficient building operations."

CROSS REFERENCES

Administrative procedure, functions conferred hereunder not included as agency action, see section 551 of Title 5, Government Organization and Employees.

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note under section 1743 of this title.

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1739, 1743, 1744, 1745 of this title; title 5 sections 551 and 701.

§ 1739. Mortgage insurance benefits

(a) Conveyance and assignment by mortgagee after foreclosure; debentures and certificates of claim; cost of foreclosure

In any case in which the mortgagee under a mortgage insured under section 1738 of this title shall have foreclosed and taken possession of the mortgaged property, in accordance with regulations of, and within a period to be determined by, the Secretary, or shall, with the consent of the Secretary, have otherwise acquired such property from the mortgagor after default, the mortgagee shall be entitled to receive the benefit of the insurance as hereinafter pro-

vided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of rules and regulations of the Secretary in force at the time the mortgage was insured, and which is evidenced in the manner prescribed by such rules and regulations; and (2) the assignment to him of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary. Upon such conveyance and assignment the obligation of the mortgagee to pay the premium charges for insurance shall cease and the Secretary shall, subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value equal to the value of the mortgage and a certificate of claim, as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined, in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after default other than by foreclosure, the amount of all payments which have been made by the mortgagee for taxes, ground rents, and water rates, which are liens prior to the mortgage, special assessments which are noted on the application for insurance or which become liens after the insurance of the mortgage, insurance of the mortgaged property, and any mortgage insurance premiums and by deducting from such total amount any amount received on account of the mortgage after either of such dates, and any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates: *Provided,* That with respect to mortgages which are foreclosed before there shall have been paid on account of the principal obligation of the mortgage a sum equal to 10 per centum of the appraised value of the property as of the date the mortgage was accepted for insurance, there may be included in the debentures issued by the Secretary, on account of the cost of foreclosure (or of acquiring the property by other means) actually paid by the mortgagee and approved by the Secretary an amount—

(1) not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings and not in excess of $75; or

(2) not in excess of two-thirds of such cost, whichever is the greater: *Provided further,* That with respect to any debentures issued on or after September 2, 1964, the Secretary may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e) of this section), include in debentures, in addition to amounts otherwise allowed for such costs, an amount not to exceed one-third of the total foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Secretary, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee: *And provided further,* That with respect to mortgages to which the provisions of sections 532 and 536 of the Appendix to title 50 apply and which are insured under section 1738 of this title and subject to such regulations and conditions as the Secretary may prescribe, there shall be included in the debentures an amount which the Secretary finds to be sufficient to compensate the mortgagee for any loss which it may have sustained on account of interest on debentures and the payment of insurance premiums by reason of its having postponed the institution of foreclosure proceedings or the acquisition of the property by other means during any part or all of the period of such military service and three months thereafter.

(b) Consent to release of mortgagee or property

The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage: *Provided,* That the mortgagor shall not be released from such liability in any case until the Secretary is satisfied that the mortgaged property has been sold to a purchaser satisfactory to the Secretary, and that such purchaser has paid on account of the purchase price, in cash or its equivalent, at least 10 per centum of the Secretary's estimate of the value as of the date the mortgage is accepted for insurance.

(c) Debentures; form and denomination

Debentures issued under this subchapter shall be in such form and denominations in multiples of $50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the value of the mortgage determined as herein provided and the aggregate face value of the debentures issued, not to exceed $350, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the General Insurance Fund.

(d) Debentures; execution; negotiability; terms; tax exemptions

The debenture issued under this section to any mortgagee shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable. All such debentures shall be dated as of the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default, except that debentures issued pursuant to claims for insurance filed on or after September 2, 1964, shall be dated as of the date of default or as of such later date as the Secretary, in his discretion, may establish by regulation. The debentures shall bear interest from such date at a rate determined by the Secretary, with the approval of the Secretary of the Treasury, at the time the mortgage was accepted for insurance, but not to exceed 3 per centum per annum, payable semiannually on the 1st day of January and the 1st day of July

of each year. Such debentures as are issued in exchange for property covered by mortgages accepted for insurance under this section on or after May 26, 1942, shall mature ten years after the date thereof. Such debentures as are issued in exchange for property covered by mortgages accepted for insurance under this section prior to May 26, 1942, shall mature three years after the 1st day of July following the maturity date of the mortgage on the property in exchange for which the debentures were issued: *Provided,* That any mortgagee entitled to receive such debentures may elect to receive in lieu thereof debentures which shall mature ten years after the date thereof. Such debentures shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by any Territory, dependency, or possession of the United States, or by the District of Columbia, or by any State, county, municipality, or local taxing authority, and shall be paid out of the General Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and such guaranty shall be expressed on the face of the debentures. In the event that the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this subchapter, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(e) Certificate of claim

The certificate of claim issued by the Secretary to any mortgagee shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, at the time of the conveyance to the Secretary of the property covered by the mortgage, the mortgagor had redeemed the property and paid in full all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. The amount to which the holder of any such certificate shall be entitled shall be determined as provided in subsection (f) of this section.

(f) Division of excess proceeds

(1) If, after deducting (in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Secretary, the net amount realized from any property conveyed to the Secretary under this section and the claims assigned therewith exceed the face value of the debentures issued and the cash paid in exchange for such property plus all interest paid on such debentures, such excess shall be divided as follows:

(i) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be paid to the mortgagor of such property: *Provided,* That on and after September 2, 1964, any excess remaining after payment to the holder of the full amount of the certificate of claim shall be retained by the Secretary and credited to the General Insurance Fund; and

(ii) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(2) Notwithstanding any other provisions of this section, the Secretary is authorized, with the consent of the mortgagee or mortgagor, as the case may be, to effect the settlement of certificates of claim and refunds at any time after the sale or transfer of title to the property conveyed to the Secretary under this section and without awaiting the final liquidation of such property for the purpose of determining the net amount to be realized therefrom: *Provided,* That the settlement authority created by the Housing Amendments of 1955 shall be terminated with respect to any certificate of claim outstanding as of September 2, 1964.

(3) With the consent of the holder thereof, the Secretary is authorized to settle, without awaiting the final liquidation of the Secretary's interest in the property, any certificate of claim issued pursuant to subsection (e) of this section, with respect to which a settlement had not been effected prior to September 2, 1964, by making payment in cash to the holder thereof of such amount, not exceeding the face amount of the certificate of claim, together with the accrued interest increment thereon, as the Secretary may consider appropriate: *Provided,* That in any case where the certificate of claim is settled in accordance with the provisions of this paragraph, any amounts realized after September 2, 1964, in the liquidation of the Secretary's interest in the property, shall be retained by the Secretary and credited to the applicable insurance fund.

(g) Handling and disposal of property; settlement of claims

Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary shall have power to deal with, complete, rent, renovate, modernize, insure, make contracts or establish suitable agencies for the management of, or sell for cash or credit, in his discretion, any properties conveyed to him in exchange for debentures and certificates of claim as provided in this subchapter; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary as provided in this

subchapter, except that no suit or action shall be commenced by the Secretary against any such mortgagor on account of any claim so assigned with respect to mortgages insured under section 1738 of this title unless such suit or action is commenced within six months after the assignment of such claim to the Secretary, or within six months after the last payment was made to the Secretary with respect to the claim so assigned, whichever is later: *Provided,* That section 5 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000. The power to convey and to execute in the name of the Secretary deeds of conveyances, deeds of release, assignments, and satisfactions of mortgages, and any other written instrument relating to real property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this chapter, may be exercised by an officer appointed by him, without the execution of any express delegation of power or power of attorney: *Provided,* That nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney in his discretion, to any officer, agent, or employee he may appoint.

(h) Mortgagor's or mortgagee's interest in property or claim conveyed

No mortgagee or mortgagor shall have and no certificate of claim shall be construed to give to any mortgagee or mortgagor, any right or interest in any property conveyed to the Secretary or in any claim assigned to him; nor shall the Secretary owe any duty to any mortgagee or mortgagor with respect to the handling or disposal of any such property or the collection of any such claim.

(June 27, 1934, ch. 847, title VI, § 604, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 58, and amended May 26, 1942, ch. 319, §§ 5–8, 14(b), 56 Stat. 302, 305; Oct. 14, 1943, ch. 258, § 2, 57 Stat. 570; May 22, 1946, ch. 268, § 10(e), 60 Stat. 213; Mar. 31, 1948, ch. 165, § 1(d), 62 Stat. 101; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Aug. 11, 1955, ch. 783, title I, § 104, 69 Stat. 637; Sept. 2, 1964, Pub. L. 88-560, title I, § 105(d), (f), 78 Stat. 772-774; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(p), 79 Stat. 506; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), (d), 81 Stat. 17, 18.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

The Housing Amendments of 1955, referred to in subsec. (f)(2), refers to act, Aug. 11, 1955, ch. 783, 69 Stat. 635. For classification of act Aug. 11, 1955, in the Code, see Short Title of 1955 Amendments note set out under section 1701 of this title.

AMENDMENTS

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (a)(2), (b) to (e), (f)(1), (f)(1)(i), (ii), (f)(2), (3), (g), and (h) of this section.

Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing in subsecs. (b) and (f)(3) of this section.

Subsec. (g). Pub. L. 90-19, § 1(d), substituted "an officer" for "the Commissioner or by any Assistant Commissioner".

1965—Subsecs. (c), (d), (f)(1)(i). Pub. L. 89-117 substituted "General Insurance Fund" for "War Housing Insurance Fund".

1964—Subsec. (a). Pub. L. 88-560, § 105(d)(1), (f), inserted the proviso reading "Provided further, That with respect to any debentures issued on or after September 2, 1964, the Commissioner may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e)), include in debentures, in addition to amounts otherwise allowed for such costs, an amount not to exceed one-third of the total foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee:" and deleted from the third sentence "paid after either of such dates" following "mortgage insurance premiums", respectively.

Subsec. (c). Pub. L. 88-560, § 105(d)(2), increased the limitation on the difference between the value of the mortgage and the aggregate face value of the debentures issued from $50 to $350.

Subsec. (d). Pub. L. 88-560, § 105(d)(3), substituted in the second sentence "default, except that debentures issued pursuant to claims for insurance filed on or after September 2, 1964, shall be dated as of the date of default or as of such later date as the Commissioner, in his discretion, may establish by regulation. The debentures" for "default, and".

Subsec. (f). Pub. L. 88-560, § 105(d)(4) to (8), designated the introductory par. as par. (1) and substituted therein "If, after deducting (in such manner and amount as the Commissioner shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Commissioner, the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith exceed the face value" for "If the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith, after deducting all expenses incurred by the Commissioner in handling, dealing with, and disposing of such property and in collecting such claims, exceeds the face value"; redesignated former par. (1) as (i) and substituted therein "property: *Provided,* That on and after September 2, 1964, any excess remaining after payment to the holder of the full amount of the certificate of claim shall be retained by the Commissioner and credited to the War Housing Insurance Fund; and" for "property; and"; redesignated former par. (2) as (ii); designated the concluding par. as par. (2) and added the proviso; and added par. (3), respectively.

1955—Subsec. (f). Act Aug. 11, 1955, authorized the Commissioner to effect the settlement of certificates of claim and refunds at any time after the sale or transfer of title to the property.

1948—Subsec. (b). Act Mar. 31, 1948, substituted "value" for "necessary current cost".

1946—Subsec. (b). Act May 22, 1946, substituted "Administrator's estimate of the necessary current cost" following "10 per centum of the" for "appraised value of such property as determined by the Administrator".

1943—Subsec. (a). Act Oct. 14, 1943, added proviso dealing with losses due to nonforeclosure of mortgages to last sentence.

1942—Act May 26, 1942, § 14(b), substituted the words "War" and "war" for "Defense" and "defense" wherever occurring.

Subsec. (a). Act May 26, 1942, § 5, substituted "section 1738 of this title" for "this subchapter".

Subsec. (c). Act May 26, 1942, § 6, substituted "subchapter" for "section".

Subsec. (d). Act May 26, 1942, § 7, amended subsec. (d).

Subsec. (g). Act May 26, 1942, § 8, substituted "subchapter" for "section" and inserted "with respect to mortgages insured under section 1738 of this title".

SEPARABILITY OF PROVISIONS

Separability of act Mar. 28, 1941, see Separability of Provisions note under section 1736 of this title.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

CROSS REFERENCES

Administrative procedure, functions conferred hereunder not included as agency action, see section 551 of Title 5, Government Organization and Employees.

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note under section 1743 of this title.

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1710, 1743, 1744, 1746, 1748b of this title; title 5 sections 551, 701.

§ 1740. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section act June 27, 1934, ch. 847, title VI, § 605, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 61, and amended May 26, 1942, ch. 319, §§ 9, 14(b), 56 Stat. 303, 305; 1947 Reorg. Plan No. 3, § 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59, provided for the disposition and investment of surplus money in the War Housing Insurance Fund and for the credit and payment of charges and fees.

§ 1741. State taxation of realty held by Secretary

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Secretary under this subchapter from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title VI, § 606, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 61, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

SEPARABILITY OF PROVISIONS

Separability of act Mar. 28, 1941, see Separability of Provisions note set out under section 1736 of this title.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

CROSS REFERENCES

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

§ 1742. Rules and regulations

The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this subchapter.

(June 27, 1934, ch. 847, title VI, § 607, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 61, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

SEPARABILITY OF PROVISIONS

Separability of act Mar. 28, 1941, see Separability of Provisions note set out under section 1736 of this title.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1743. Insurance of mortgages

(a) Additional authorization; advances during construction

In addition to mortgages insured under section 1738 of this title, the Secretary is authorized to insure mortgages as defined in section 1736 of this title (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided.

(b) Eligibility requirements

To be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall be held by a mortgagor approved by the Secretary. The Secretary may, in his discretion, require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation. The Secretary may make such contracts with, and acquire for not to exceed $100 stock or interest in any such mortgagor, as the Secretary may deem necessary to render effective such restriction or regulation. Such stock or interest shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) Preference or priority of opportunity in the occupancy of the mortgaged property for veterans of World War II and their immediate families, and for hardship cases as defined by the Secretary, shall be provided under such regulations and procedures as may be prescribed by the Secretary.

(3) The mortgage shall involve a principal obligation in an amount—

(A) not to exceed $5,000,000; and

(B) not to exceed 90 per centum of the amount which the Secretary estimates will be the necessary current cost of the completed property or project, including the land; the proposed physical improvements; utilities within the boundaries of the property or project; architects' fees; taxes and interest accruing during construction; and other miscellaneous charges incidental to construction and approved by the Secretary: *Provided,* That such mortgage shall not in any event exceed the amount which

the Secretary estimates will be the cost of the completed physical improvements on the property or project, exclusive of off-site public utilities and streets, and organization and legal expenses: *And provided further,* That the principal obligation of the mortgage shall not, in any event, exceed 90 per centum of the Secretary's estimate of the replacement cost of the property or project on the basis of the costs prevailing on December 31, 1947, for properties or projects of comparable quality in the locality where such property or project is to be located; and

(C) not to exceed $8,100 per family unit for such part of such property or project as may be attributable to dwelling use.

The mortgage shall provide for complete amortization by periodic payment within such term as the Secretary shall prescribe, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4½ per centum per annum on the amount of the principal obligation outstanding at any time. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release.

(c) Payments; default; insurance benefits for mortgagee; value of mortgage; foreclosure of mortgage

The failure of the mortgagor to make any payment due under or provided to be paid by the terms of a mortgage insured under this section shall be considered a default under such mortgage, and if such default continues for a period of thirty days, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon assignment, transfer, and delivery to the Secretary, within a period and in accordance with rules and regulations to be prescribed by the Secretary of (1) all rights and interests arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagors or others, arising out of the mortgage transaction; (3) all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; (4) any balance of the mortgage loan not advanced to the mortgagor; (5) any cash or property held by the mortgagee, or to which it is entitled, as deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and (6) all records, documents, books, papers, and accounts relating to the mortgage transaction. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for mortgage insurance shall cease, and the Secretary shall, subject to the cash adjustment provided for in section 1739(c) of this title, issue to the mortgagee debentures having a total face value equal to the value of the mortgage, and a certificate of claim as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of default, the amount the mortgagee may have paid for (A) taxes, special assessments, and water rates, which are liens prior to the mortgage; (B) insurance on the property; and (C) reasonable expenses for the completion and preservation of the property and any mortgage insurance premiums paid after default; less the sum of (i) an amount equivalent to 1 per centum of the unpaid amount of such principal obligation on the date of default; (ii) any amount received on account of the mortgage after such date; and (iii) any net income received by the mortgagee from the property after such date: *Provided,* That the mortgagee in the event of a default under the mortgage may, at its option and in accordance with regulations of, and in a period to be determined by the Secretary, proceed to foreclose on and obtain possession of or otherwise acquire such property from the mortgagor after default, and receive the benefits of the insurance as herein provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of the rules and regulations of the Secretary in force at the time the mortgage was insured, and which is evidenced in the manner prescribed by such rules and regulations; and (2) the assignment to him of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims that may have been released with the consent of the Secretary. Upon such conveyance and assignment, the obligation of the mortgagee to pay the premium charges for insurance shall cease and the mortgagee shall be entitled to receive the benefits of the insurance as provided in this subsection, except that in such event the 1 per centum deduction, set out in (i) hereof, shall not apply.

(d) Certificates of claim; amount

The certificate of claim issued by the Secretary to any mortgagee in connection with the insurance of mortgages under this section shall be for an amount determined in accordance with subsections (e) and (f) of section 1739 of this title, except that any amount remaining after the payment of the full amount under the certificate of claim shall be retained by the Secretary and credited to the General Insurance Fund.

(e) Debentures; date of issuance; interest

Debentures issued under this section shall be issued in accordance with the provisions of section 1739 (d) of this title except that such debentures shall be dated as of the date of default as determined in subsection (c) of this section, and shall bear interest from such date.

(f) Applicability of other provisions

The provisions of section 1713(k) of this title shall be applicable to mortgages insured under this section, except that, as applied to such mortgages, the reference therein to subsection (g) shall be construed to refer to subsection (c) of this section.

(g) Mortgages in connection with sale of property under subchapters I, II, VIII, or X of this chapter

The Secretary shall also have power to insure under this subchapter or subchapters I, II, VIII, or X of this chapter any mortgage execut-

ed in connection with the sale by him of any property acquired under any of such subchapters without regard to limitations upon eligibility, time, or aggregate amount contained therein.

(June 27, 1934, ch. 847, title VI, § 608, as added May 26, 1942, ch. 319, § 11, 56 Stat. 303, and amended Mar. 31, 1945, ch. 48, § 2, 59 Stat. 47; May 22, 1946, ch. 268, § 10(f), (g), 60 Stat. 214; Aug. 10, 1948, ch. 832, title I, § 101(b), (c), 62 Stat. 1269; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title II, § 206, 65 Stat. 303; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(q), 79 Stat. 506; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), 81 Stat. 17.)

REFERENCE IN TEXT

The General Insurance Fund, referred to in subsecs. (b) and (d), was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b)(1), (2), (3)(B), following (C), (c), (d), and (g) of this section.

Subsec. (b)(3)(B). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's".

1965—Subsecs. (b)(1), (d). Pub. L. 89-117, § 1108(q)(1), substituted "General Insurance Fund" for "War Housing Insurance Fund".

Subsec. (f). Pub. L. 89-117, § 1108(q)(2), struck out provisions that, as applied to mortgages insured under this section, all references in section 1713(k) of this title to the "Housing Fund" shall be construed to refer to the "War Housing Insurance Fund".

1951—Subsec. (g). Act Sept. 1, 1951, inserted references to subchapters I, VIII and X of this chapter.

1948—Subsec. (b). Act Aug. 10, 1948, added the second proviso in par. (3)(B), substituted "$8,100 per family unit" for "$1,500 per room" and struck out proviso relating to authority to increase "$1,500" to "$1,800" per room.

1946—Subsec. (b)(2). Act May 22, 1946, substituted "Preference or priority of opportunity in the occupancy of the mortgaged property for veterans of World War II and their immediate families, and for hardship cases as defined by the Administrator, shall be provided under such regulations and procedures as may be prescribed by the Administrator" for "The mortgaged property shall be designed for rent for residential use by warworkers".

Subsec. (b)(3). Act May 22, 1946, substituted "necessary current cost" following "estimates will be the" for "reasonable replacement cost" in par. (B), and increased mortgage per room from $1,350 to $1,500 and added proviso in par. (C).

Subsec. (c). Act May 22, 1946, inserted "and any mortgage insurance premiums paid after default" preceding the semicolon in clause (C) of the third sentence.

1945—Subsec. (g). Act Mar. 31, 1945, inserted provisions empowering Commissioner to insure mortgages without regard to any limitations upon time or aggregate amount contained in this subchapter.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

CONSTRUCTION OF ACT MAY 26, 1942, WITH EX. ORD. NO. 9070, CONSOLIDATING NATIONAL HOUSING AGENCY

Section 12 of act May 26, 1942 provided that nothing contained in act May 26, 1942 [amending this subchapter] shall be construed to supersede or be inconsistent with the provisions of Ex. Ord. No. 9070, Feb. 24, 1942.

CROSS REFERENCES

Administrative procedure, functions conferred hereunder not included as agency action, see section 551 of Title 5, Government Organization and Employees.

United States obligations and evidences of ownership issued after March 27, 1942, as subject to Federal taxation, see section 742a of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1731b, 1738, 1745, 1746, 1750g of this title; title 5 sections 551, 701; title 42 section 1594a.

§ 1744. Insurance of loans for manufacture of houses

(a) Relief of housing shortage; advances

In order to assist in relieving the acute shortage of housing which now exists and to promote the production of housing for veterans of World War II at moderate prices or rentals within their reasonable ability to pay, through the application of modern industrial processes, the Secretary is authorized to insure loans to finance the manufacture of housing (including advances on such loans) when such loans are eligible for insurance as hereinafter provided.

(b) Eligibility requirements

Loans for the manufacture of houses shall be eligible for insurance under this section if at the time of such insurance, the Secretary determines they meet the following conditions:

(1) The manufacturer shall establish that binding purchase contracts have been executed satisfactory to the Secretary providing for the purchase and delivery of the houses to be manufactured, which contracts shall provide for the payment of the purchase price at such time as may be agreed to by the parties thereto, but, in no event, shall the purchase price be payable on a date in excess of thirty days after the date of delivery of such houses, unless not less than 20 per centum of such purchase price is paid on or before the date of delivery and the lender has accepted and discounted or has agreed to accept and discount, pursuant to subsection (i) of this section a promissory note or notes, executed by the purchaser, representing the unpaid portion of such purchase price, in which event such unpaid portion of the purchase price may be payable on a date not in excess of one hundred and eighty days from the date of delivery of such houses;

(2) Such houses to be manufactured shall meet such requirements of sound quality, durability, livability, and safety as may be prescribed by the Secretary;

(3) The borrower shall establish to the satisfaction of the Secretary that he has or will have adequate plant facilities, sufficient capital funds, taking into account the loan applied for, and the experience necessary, to achieve the required production schedule;

(4) The loan shall involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the necessary current cost, exclusive of profit, of manufacturing the houses, which are the subject of such purchase contracts assigned to secure the loan,

less any sums paid by the purchaser under said purchase contracts prior to the assignment thereof. The loan shall be secured by an assignment of the aforesaid purchase contracts and of all sums payable thereunder on or after the date of such assignment, with the right in the assignee to proceed against such security in case of default as provided in the assignment, which assignment shall be in such form and contain such terms and conditions, as may be prescribed by the Secretary; and the Secretary may require such other agreements and undertakings to further secure the loan as he may determine, including the right, in case of default or at any time necessary to protect the lender, to compel delivery to the lender of any houses then owned and in the possession of the borrower. The loan shall have a maturity not in excess of one year from the date of the note, except that any such loan may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe for an additional term not to exceed one year, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4 per centum per annum on the amount of the principal obligation outstanding at any time.

(c) Release of security

The Secretary may consent to the release of a part or parts of the property assigned or delivered as security for the loan, upon such terms and conditions as he may prescribe and the security documents may provide for such release.

(d) Payments; default; insurance benefits for mortgagee; prerequisites; value of mortgage

The failure of the borrower to make any payment due under or provided to be paid by the terms of a loan under this section, or the failure to perform any other covenant or obligation contained in any assignment, agreement, or undertaking executed by the borrower in connection with such loan, shall be considered as a default under this section, and if such default continues for a period of thirty days, the lender shall be entitled to receive the benefits of the insurance hereinafter provided upon assignment, transfer, and delivery to the Secretary within a period and in accordance with the rules and regulations prescribed by the Secretary of (1) all rights and interest arising with respect to the loan so in default; (2) all claims of the lender against the borrower or others arising out of the loan transaction; (3) any cash or property held by the lender, or to which it is entitled, as deposits made for the account of the borrower and which have not been applied in reduction of the principal of the loan; and (4) all records, documents, books, papers, and accounts relating to the loan transaction. Upon such assignment, transfer, and delivery, the Secretary shall, subject to the cash adjustment provided for in section 1739(c) of this title, issue to the lender debentures having a face value equal to the unpaid principal balance of the loan.

(e) Debentures; date of issuance; interest

Debentures issued under this section shall be issued in accordance with the provisions of section 1739(d) of this title except that such debentures shall be dated as of the date of default as determined in subsection (d) of this section and shall bear interest from such date.

(f) Applicability of other provisions

The provisions of sections 1713(k) and 1738(a) of this title shall be applicable to loans insured under this section, except that as applied to such loans (1) the reference in section 1713(k) of this title to "subsection (g)" shall be construed to refer to "subsection (d)" of this section; (2) the references in section 1713(k) of this title to insured mortgages shall be construed to refer to the assignment or other security for loans insured under this section; and (3) the references in section 1738(a) of this title to a mortgage or mortgages shall be construed to include a loan or loans under this section. The provisions of section 1738(d) of this title shall also be applicable to loans insured under this section and the reference in section 1738(d) of this title to a mortgage shall be construed to include a loan or loans with respect to which a contract of insurance is issued pursuant to this section.

(g) Disposal of evidence of debt, contract, claim, personal property, or security; collection or compromise of obligations and rights

Notwithstanding any other provision of law, the Secretary shall have the power to assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such insurance until such time as such obligations may be referred to the Attorney General for suit or collection.

(h) Premium charges; amount; manner of payment; application fees

The Secretary shall fix a premium charge for the insurance granted under this section, but such premium charge shall not exceed an amount equivalent to 1 per centum of the original principal of such loan, and such premium charge shall be payable in advance by the financial institution and shall be paid at such time and in such manner as may be prescribed by the Secretary. In addition to the premium charge herein provided for, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for examining and processing applications for the insurance of loans under this section, including such additional inspections as the Secretary may deem necessary.

(i) Insurance for accepting and discounting promissory notes; contract provisions; default in payments; remedies; debentures; interest; premium charges

(1) In addition to the insurance of the principal loan to finance the manufacture of housing, as provided in this section, and in order to provide short-term financing in the sale of houses to be delivered pursuant to the purchase contract or contracts assigned as security for such principal loan, the Secretary is authorized, under such terms and conditions and subject to

such limitations as he may prescribe, to insure the lender against any losses it may sustain resulting from the acceptance and discount of a promissory note or notes executed by a purchaser of any such houses representing an unpaid portion of the purchase price of any such houses. No such promissory note or notes accepted and discounted by the lender pursuant to this subsection shall involve a principal obligation in excess of 80 per centum of the purchase price of the manufactured house or houses; have a maturity in excess of one hundred and eighty days from the date of the note or bear interest in excess of 4 per centum per annum; nor may the principal amount of such promissory notes, with respect to any individual principal loan, outstanding and unpaid at any one time, exceed in the aggregate an amount prescribed by the Secretary.

(2) The Secretary is authorized to include in any contract of insurance executed by him with respect to the insurance of a loan to finance the manufacture of houses, provisions to effectuate the insurance against any such losses under this subsection.

(3) The failure of the purchaser to make any payment due under or provided to be paid by the terms of any note or notes executed by the purchaser and accepted and discounted by the lender under the provisions of this subsection, shall be considered as a default under this subsection, and if such default continues for a period of thirty days, the lender shall be entitled to receive the benefits of the insurance, as provided in subsection (d) of this section except that debentures issued pursuant to this subsection shall have a face value equal to the unpaid principal balance of the loan plus interest at the rate of 4 per centum per annum from the date of default to the date the application is filed for the insurance benefits.

(4) Debentures issued with respect to the insurance granted under this subsection shall be issued in accordance with the provisions of section 1739(d) of this title except that such debentures shall be dated as of the date application is filed for the insurance benefits and shall bear interest from such date.

(5) The Secretary is authorized to fix a premium charge for the insurance granted under this subsection, in addition to the premium charge authorized under subsection (h) of this section. Such premium charge shall not exceed an amount equivalent to 1 per centum of the original principal of such promissory note or notes and shall be paid at such time and in such manner as may be prescribed by the Secretary.

(June 27, 1934, ch. 847, title VI, § 609, as added June 30, 1947, ch. 163, title I, § 3, 61 Stat. 193, and amended Aug. 10, 1948, ch. 832, title I, § 101(d), 62 Stat. 1269; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(r), 79 Stat. 506; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b), (b)(1) to (4), (c), (d), (g), (h), and (i)(1), (2), (5) of this section.

1965—Subsec. (f). Pub. L. 89-117, struck out clause (1) of the first sentence which provided that all references in section 1713(k) of this title to the "Housing Fund" shall be construed to refer to the "War Housing Insurance Fund" and redesignated clauses (2), (3), and (4) thereof as clauses (1), (2), and (3), respectively.

1948—Subsec. (b). Act Aug. 10, 1948, § 101(d)(1), (2), struck out par. (1) and inserted new par. (1), and struck out the first two sentences of par. (4) and added two new sentences.

Subsec. (f). Act Aug. 10, 1948, § 101(d)(3), added last sentence.

Subsec. (i). Act Aug. 10, 1948, § 101(d)(4), added subsec. (i).

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

CROSS REFERENCES

Administrative procedure, functions conferred hereunder not included as agency action, see section 551 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1738 of this title; title 5 sections 551, 701.

§ 1745. Insurance of mortgages on sales of Government housing; limits and conditions; Greenbelt towns; State housing

Notwithstanding any of the provisions of this subchapter, the Secretary is authorized, upon application by the mortgagee, to insure or to make commitments to insure under section 1738 or section 1743 of this title any mortgage executed in connection with the sale by the Government, or any agency or official thereof, of any housing acquired or constructed under Public Law 849, Seventy-sixth Congress, as amended; Public Law 781, Seventy-sixth Congress, as amended; or Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended (including any property acquired, held or constructed in connection with such housing or to serve the inhabitants thereof), without regard to—

(1) any limit as to the time when any mortgage may be insured under this subchapter;

(2) any limit as to the aggregate amount of principal obligations of all mortgages insured under this subchapter, but the aggregate amount of principal obligations of all mortgages insured pursuant to this section shall not exceed $750,000,000;

(3) any requirement that the obligation be approved for mortgage insurance prior to the beginning of construction or that the construction be new construction;

(4) any of the provisions of subsections (b)(2) or (b)(5) of section 1738 of this title or paragraphs (B) and (C) of the first sentence of section 1743(b)(3) of this title:

Provided, That such mortgage shall (1) otherwise be eligible for insurance under section 1738 or section 1743 of this title as the case may be, (2) have a maturity not exceeding twenty-five years from the date of insurance, (3) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not exceeding 90 per centum of the appraised value of the mortgage property as determined by the Secretary, and (4) bear interest (exclusive of premium charges) at not to exceed 5 per centum per annum on the amount of the

principal obligation outstanding at any time if such mortgage covers property on which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, irrespective of whether such dwelling or dwellings have a party wall or are otherwise physically connected with another dwelling or dwellings, or bear interest at not to exceed 4½ per centum per annum on the amount of the principal obligation outstanding at any time if such mortgage covers property upon which there is located a dwelling or dwellings designed principally for residential use for more than four families.

The Secretary is further authorized to insure or to make commitments to insure in accordance with the provisions of this section any mortgage executed in connection with the sale by the Secretary, or by any public housing agency with the approval of the Secretary, of any housing (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof) owned or financially assisted pursuant to the provisions of Public Law 671, Seventy-sixth Congress.

The Secretary is further authorized to insure or to make commitments to insure in accordance with the provisions of this section any mortgage executed in connection with the sale by the Government, or any agency or official thereof, of any of the so-called Greenbelt towns, or parts thereof, including projects, or parts thereof, known as Greenhills, Ohio; Greenbelt, Maryland; and Greendale, Wisconsin, developed under the Emergency Relief Appropriation Act of 1935, or of any of the village properties under the jurisdiction of the Tennessee Valley Authority, and any mortgage executed in connection with the first resale, within two years from the date of its acquisition from the Government, of any portion of a project or property of the character described in this section.

The Secretary is further authorized to insure or to make commitments to insure under section 1743 of this title in accordance with the provisions of this section any mortgage executed in connection with the sale by a State or municipality, or an agency, instrumentality, or body politic of either, of any permanent housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof), constructed by or on behalf of such State, municipality, agency, instrumentality or body politic, for the occupancy of veterans of World War II, their families, and others: *Provided*, That the principal obligation of any such mortgage does not exceed either 85 per centum of the appraised value of the mortgage property as determined by the Secretary or $8,100 per family unit for such part of such property as may be attributable to dwelling use.

(June 27, 1934, ch. 847, title VI, § 610, as added Aug. 5, 1947, ch. 495, § 2, 61 Stat. 777, and amended Aug. 10, 1948, ch. 832, title I, § 101(e), 62 Stat. 1270; Apr. 20, 1950, ch. 94, title I, §§ 120, 122, 64 Stat. 58, 59; July 14, 1952, ch. 723, § 14, 66 Stat. 605; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (*o*), 81 Stat. 17, 19.)

References in Text

Public Law 849, Seventy-sixth Congress, as amended, referred to in text, is act Oct. 14, 1940, ch. 862, 54 Stat. 1125, as amended, popularly known as the "Lanham Public War Housing Act", and is classified to subchapters II to VII (§§ 1521 et seq., 1531 et seq., 1541 et seq., 1561 et seq., 1571 et seq., and 1581 et seq.) of chapter 9 of Title 42, The Public Health and Welfare.

Public Law 781, Seventy-sixth Congress, as amended, referred to in the text, is the Second Supplemental National Defense Appropriation Act, 1941, act Sept. 9, 1940, ch. 717, 54 Stat. 872. Section 201 thereof appropriated $100,000,000 to the President for allocation to the former "War" Department, and to the Navy Department, for the construction of housing necessary to the national defense program. This provision was not classified to the code.

Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended, referred to in the text, refer to the following acts, respectively: Public Law 9, Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14; Public Law 73, Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197; and Public Law 353, Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810. These three acts appropriated a total of $320,000,000 to the President for the purpose of providing housing necessary because of national defense activities and conditions arising out of World War II. These provisions were not classified to the code, although all three acts are cited in a "Prior Additional Appropriations" note under section 1523 of Title 42, The Public Health and Welfare.

Public Law 671, Seventy-sixth Congress, referred to in text, is act June 28, 1940, ch. 440, 54 Stat. 676. Provisions of the Act relating to housing are contained in title II thereof, and are classified to subchapter I (§ 1501 et seq.) of chapter 9 of Title 42.

The Emergency Relief Appropriation Act of 1935, referred to in text, is Joint Res. Apr. 8, 1935, ch. 48, 49 Stat. 115. It was a temporary legislation, and was formerly set out in a note in former chapter 16 of Title 15, Commerce and Trade. See notes under former sections 721 to 728 of that title.

Amendments

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing and "Secretary" for "Public Housing Administration" and "said Administration" in the second paragraph, respectively.

1952—Act July 14, 1952, added last par.

1950—Act Apr. 20, 1950, § 120, made the insurance authority of this section applicable to sale by the Public Housing Administration, or any public housing agency, of any housing owned or financially assisted pursuant to the provisions of sections 1501 to 1505 of Title 42. The Public Health and Welfare, which provided for the construction of war housing out of prior authorizations for low-rent public housing on the condition that such housing would be converted to low-rent use after termination of its use for war housing.

1948—Act Aug. 10, 1948, added last par. relating to the Greenbelt towns.

Transfer of Functions

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950, § 122. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

Section Referred to in Other Sections

This section is referred to in section 1738 of this title.

§ 1746. Insurance on mortgages on large-scale housing projects

(a) Additional authorization; encouragement of cost-reduction techniques; advances

In addition to mortgages insured under other sections of this subchapter, and in order to assist and encourage the application of cost-reduction techniques through large-scale modernized site construction of housing and the erection of houses produced by modern industrial processes, the Secretary is authorized to insure mortgages (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided.

(b) Eligibility requirements

To be eligible for insurance under this section, a mortgage shall—

(1) have been made to and be held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(2) cover property, held by a mortgagor approved by the Secretary, upon which there is to be constructed or erected dwelling units for not less than twenty-five families consisting of a group of single-family dwellings approved by the Secretary for mortgage insurance prior to the beginning of construction: *Provided,* That during the course of construction there may be located upon the mortgaged property a plant for the fabrication or storage of such dwellings or sections or parts thereof, and the Secretary may consent to the removal or release of such plant from the lien of the mortgage upon such terms and conditions as he may approve;

(3) involve a principal obligation in an amount—

(A) not to exceed 85 per centum of the amount which the Secretary estimates will be the value of the completed property or project, exclusive of any plant of the character described in paragraph (2) of this subsection located thereon, and

(B) not to exceed a sum computed on the individual dwellings comprising the total project as follows: $5,950 or 85 per centum of the valuation, whichever is the lower amount, with respect to each single-family dwelling: *Provided,* That if the Secretary finds that it is not feasible, within the dollar amount limitation in this clause on the principal obligation of the mortgage, to construct dwellings containing three or four bedrooms without sacrifice of sound standards of construction, design, and livability, he may increase such dollar amount limitation by not exceeding $850 for each additional bedroom (as defined by the Secretary) in excess of two contained in each such dwelling if he finds that such dwelling meets sound standards of design and livability as a three-bedroom unit or a four-bedroom unit, as the case may be, but the amount computed under this clause for each such dwelling shall not exceed, in any event, $7,650.

With respect to the insurance of advances during construction, the Secretary is authorized to approve advances by the mortgagee to cover the cost of materials delivered upon the mortgaged property and labor performed in the fabrication or erection thereof;

(4) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe and shall bear interest (exclusive of premium charges for insurance) as not to exceed 4 per centum per annum on the amount of the principal obligation outstanding at any time: *Provided,* That the Secretary with the approval of the Secretary of the Treasury, may prescribe by regulation a higher maximum rate of interest, not exceeding 4½ per centum per annum on the amount of the principal obligation outstanding at any time, if he finds that the mortgage market demands it. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release, and the mortgage may provide that, upon the completion of the construction of the project, such mortgage may be replaced by individual mortgages covering each individual dwelling in the project. Each such individual mortgage may be insured under this section with the mortgagor being either the builder who constructed the dwellings or the owner and occupant of the dwelling at the time, and where the mortgagor is the owner and occupant, may involve a principal obligation in such amount and have such maturity and interest rate as a mortgage eligible for insurance under section 1709(b)(2)(D) of this title.

(c) Preferences in occupancy for veterans and hardship cases

Preference or priority of opportunity in the occupancy of the mortgaged property for veterans of World War II and their immediate families and for hardship cases as defined by the Secretary shall be provided under such regulations and procedures as may be prescribed by the Secretary.

(d) Applicability of other provisions

The provisions of subsections (c), (d), (e), and (f) of section 1743 of this title shall be applicable to mortgages insured under this section covering a project described in subsection (b) of this section, and the provisions of subsections (a) to (f), and (h) of section 1739 of this title shall be applicable to the individual mortgages insured pursuant to subsection (b)(4) of this section covering individual dwellings in the project.

(June 27, 1934, ch. 847, title VI, § 611, as added Aug. 10, 1948, ch. 832, title I, § 101(f), 62 Stat. 1271, and amended Apr. 20, 1950, ch. 94, title I, §§ 121, 122, 64 Stat. 58, 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

REFERENCES IN TEXT

Section 1709(b)(2)(D) of this title, referred to in subsec. (b)(4), is a reference to subsec. (b)(2)(D) of section 1709 prior to amendment by section 104 of act Aug. 2, 1954, ch. 649, 68 Stat. 590.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b), and (c) of this section.

1950—Subsec. (b)(3). Act Apr. 20, 1950, § 121(1), (2), substituted "85" for "80" in clause (A), and inserted entirely new material in clause (B).

Subsec. (b)(4). Act Apr. 20, 1950, § 121(2), added ", and the mortgage may provide that, upon the completion of the construction of the project, such mortgage may be replaced by individual mortgages covering each individual dwelling in the project. Each such individual mortgage may be insured under this section with the mortgagor being either the builder who constructed the dwellings or the owner and occupant of the dwelling at the time, and where the mortgagor is the owner and occupant, may involve a principal obligation in such amount and have such maturity and interest rate as a mortgage eligible for insurance under section 1709(b)(2)(D) of this title".

Subsec. (d). Act April 20, 1950, § 121(3), added "covering a project described in subsection (b) of this section, and the provisions of subsections (a) to (f), and (h) of section 1739 of this title shall be applicable to the individual mortgages insured pursuant to subsection (b)(4) of this section covering individual dwellings in the project".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by section 122 of act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1738, 1747h of this title.

§ 1746a. Termination of commitment authority under this subchapter

Notwithstanding any other provision of this subchapter, no mortgage or loan shall be insured under any section of this subchapter after August 2, 1954 except pursuant to a commitment to insure issued on or before such date.

(June 27, 1934, ch. 847, title VI, § 612, as added Aug. 2, 1954, ch. 649, title I, § 127, 68 Stat. 609.)

SUBCHAPTER VII—INSURANCE FOR INVESTMENTS IN RENTAL HOUSING FOR FAMILIES OF MODERATE INCOME

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1702, 1715c, 1731a, 1731b of this title.

§ 1747. Purpose of subchapter; authorization; terms and conditions; expiration of insurance contract

The purpose of this subchapter is to supplement the existing systems of mortgage insurance for rental housing under this chapter by a special system of insurance designed to encourage equity investment in rental housing at rents within the capacity of families of moderate income. To effectuate this purpose, the Secretary is authorized, upon application by the investor, to insure as hereinafter provided, and, prior to the execution of insurance contracts and upon such terms as the Secretary shall prescribe, to make commitments to insure, the minimum annual amortization charge and an annual return on the outstanding investment of such investor in any project which is eligible for insurance as hereinafter provided in an amount (herein called the "insured annual return") equal to such rate of return, not exceeding 2¾ per centum per annum, on such outstanding investment as shall, after consultation with the Secretary of the Treasury, be fixed in the insurance contract or in the commitment to insure: *Provided,* That any insurance contract made pursuant to this subchapter shall expire as of the first day of the operating year for which the outstanding investment amounts to not more than 10 per centum of the established investment.

(June 27, 1934, ch. 847, title VII, § 701, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 23, 1959, Pub. L. 86-372, title I, § 118, 73 Stat. 664; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1959—Pub. L. 86-372 eliminated provisions which limited the aggregate amount of contingent liabilities outstanding at any one time under insurance contracts and commitments to insure made pursuant to this subchapter to not more than $1,000,000,000.

SEPARABILITY OF PROVISIONS

Section 505 of act Aug. 10, 1948, provided that: "Except as may be otherwise expressly provided in this Act [sections 1701c, 1701e to 1701g-3, 1702, 1703, 1709, 1710, 1713, 1716, 1738, 1743 to 1746 and 1747 to 1747*l* of this title, section 846 of Title 31, Money and Finance, former section 694 of Title 38, Pensions, Bonuses, and Veterans' Relief, and section 1404a of Title 42, The Public Health and Welfare], all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act, or the application thereof to any person or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provisions of this Act, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered."

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

INCONSISTENT PROVISIONS

Section 504 of act Aug. 10, 1948, provided that: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [sections 1701c, 1701e to 1701g-3, 1702, 1703, 1709, 1710, 1713, 1716, 1738, 1743 to 1746 and 1747 to 1747*l* of this title, section 846 of Title 31, Money and Finance, former section 694 of Title 38, Pensions, Bonuses, and Veterans' Relief, and section 1404a of Title 42, The Public Health and Welfare], the provisions of this Act shall be controlling."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1747*l* of this title.

§ 1747a. Eligibility for insurance

(a) To be eligible for insurance under this subchapter, a project shall meet the following conditions:

(1) The Secretary shall be satisfied that there is, in the locality or metropolitan area

of such project, a need for new rental dwellings at rents comparable to the rents proposed to be charged for the dwellings in such project.

(2) Such project shall be economically sound, and the dwellings in such project shall be acceptable to the Secretary as to quality, design, size, and type.

(b) Any insurance contract executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the project and the investor for such insurance, and the validity of any insurance contract so executed shall be incontestable in the hands of an investor from the date of the execution of such contract, except for fraud or misrepresentation on the part of such investor.

(c) After completion of the project the investor must establish in a manner satisfactory to the Secretary that the project is free and clear of liens and that there are no other outstanding unpaid obligations contracted in connection with the construction of the project, except taxes and such other liens and obligations as may be approved or prescribed by the Secretary. Debentures issued by the investor which are payable out of net income from the project and from the benefits of the insurance contract shall not be construed as "unpaid obligations" as such term is used in this subsection.

(June 27, 1934, ch. 847, title VII, § 702, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title VI, § 609(a), 65 Stat. 316; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a)(1), (2), (b), and (c) of this section.

1951—Subsec. (c). Act Sept. 1, 1951, added subsec. (c).

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1747b. Premium charges; fees for examination and inspection

(a) For insurance granted pursuant to this subchapter the Secretary shall fix and collect a premium charge in an amount not exceeding one-half of 1 per centum of the outstanding investment for the operating year for which such premium charge is payable without taking into account the excess earnings, if any, applied, in addition to the minimum annual amortization charge, to amortization of the outstanding investment. Such premium charge shall be payable annually in advance by the investor, either in cash or in debentures issued by the Secretary under this subchapter at par plus accrued interest: *Provided,* That, if in any operating year the gross income shall be less than the operating expenses, the premium charge payable during such operating year shall be waived, but only to the extent of the amount of the difference between such expenses and such income and subject to subsequent payment out of any excess earnings as hereinafter provided.

(b) With respect to any project offered for insurance under this subchapter, the Secretary is authorized to charge and collect reasonable fees for examination, and for inspection during the construction of the project: *Provided,* That such fees shall not aggregate more than one-half of 1 per centum of the estimated investment.

(June 27, 1934, ch. 847, title VII, § 703, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1277, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) and (b) of this section.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1747*l* of this title.

§ 1747c. Rent schedules

The Secretary shall require that the rents for the dwellings in any project insured under this subchapter shall be established in accordance with a rent schedule approved by the Secretary, and that the investor shall not charge or collect rents for any dwellings in the project in excess of the appropriate rents therefor as shown in the latest rent schedule approved pursuant to this section. Prior to approving the initial or any subsequent rent schedule pursuant to this section, the Secretary shall find that such schedule affords reasonable assurance that the rents to be established thereunder are (1) not lower than necessary, together with all other income to be derived from or in connection with the project, to produce reasonably stable revenues sufficient to provide for the payment of the operating expenses, the minimum annual amortization charge, and the minimum annual return; and (2) not higher than necessary to meet the need for dwellings for families of moderate income.

(June 27, 1934, ch. 847, title VII, § 704, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1277, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1747d. Excess earnings used for amortization of original investment

For all of the purposes of any insurance contract made pursuant to this subchapter, 50 per centum of the excess earnings, if any, for any operating year may be applied, in addition to the minimum annual return, to return on the outstanding investment but only to the extent that such application thereof does not result in an annual return of more than 5 per centum of the outstanding investment for such operating year, and the balance of any such excess earnings shall be applied, in addition to the minimum annual amortization charge, to amortization of the outstanding investment: *Provided,* That if in any preceding operating years the gross income shall have been less than the operating expenses, such excess earnings shall be applied to the extent necessary in whole or in part, first, to the reimbursement of the amount of the difference between such expenses (exclusive of any premium charges previously waived hereunder) and such income, and, second, to the payment of any premium charges previously waived hereunder.

(June 27, 1934, ch. 847, title VII, § 705, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1277.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1747*l* of this title.

§ 1747e. Financial statements by Secretary

With respect to each project insured under this subchapter, the Secretary shall provide that, after the close of each operating year, the investor shall submit to him for approval a financial and operating statement covering such operating year. If any such financial and operating statement shall not have been submitted or, for proper cause, shall not have been approved by the Secretary, payment of any claim submitted by the investor may, at the option of the Secretary, be withheld, in whole or in part, until such statement shall have been submitted and approved.

(June 27, 1934, ch. 847, title VII, § 706, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1278, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1747f. Payment of claims; assignment of benefits by investors

If in any operating year the net income of a project insured under this subchapter is less than the aggregate of the minimum annual amortization charge and the insured annual return, the Secretary, upon submission by the investor of a claim for the payment of the amount of the difference between such net income and the aggregate of the minimum annual amortization charge and the insured annual return and after proof of the validity of such claim, shall pay to the investor, in cash from the General Insurance Fund, the amount of such difference, as determined by the Secretary, but not exceeding, in any event, an amount equal to the aggregate of the minimum annual amortization charge and the insured annual return. Nothing contained in this subchapter or any other provision of law shall be construed as preventing or restricting an investor from assigning, pledging, or otherwise transferring or disposing of, subject to rules and regulations of the Secretary, any or all rights, claims, or other benefits under any insurance contract made pursuant to this subchapter to an assignee, pledgee, or other transferee, including the holders (or the trustee for such holders) of any debentures issued by the investor in connection with the project to which such insurance contract relates, and the Secretary is authorized to pay claims or issue debentures in accordance with the provisions of this section and section 1747g of this title to any such assignee, pledgee, or other transferee.

(June 27, 1934, ch. 847, title VII, § 707, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1278, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title VI, § 609(b), 65 Stat. 316; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(s), 79 Stat. 506; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1965—Pub. L. 89-117 substituted "General Insurance Fund" for "Housing Investment Insurance Fund".

1951—Act Sept. 1, 1951, added second sentence.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1747g. Debentures

(a) Acquisition of project by Secretary; issuance of debentures

If the aggregate of the amounts paid to the investor pursuant to section 1747f of this title with respect to a project insured under this subchapter shall at any time equal or exceed 15 per centum of the established investment, the Secretary thereafter shall have the right, after written notice to the investor of his intentions so to do, to acquire, as of the first day of any operating year, such project in consideration of the issuance and delivery to the investor of debentures having a total face value equal to 90 per centum of the outstanding investment for such operating year. In any such case the investor shall be obligated to convey to said Secretary title to the project which meets the requirements of the rules and regulations of the Secretary in force at the time the insurance contract was executed and which is evidenced

in the manner prescribed by such rules and regulations, and, in the event that the investor fails so to do, said Secretary may, at his option, terminate the insurance contract.

(b) Relinquishment of project by investor

If in any operating year the aggregate of the differences between the operating expenses (exclusive of any premium charges previously waived hereunder) and the gross income for the preceding operating years, less the aggregate of any deficits in such operating expenses reimbursed from excess earnings as hereinbefore provided, shall at any time equal or exceed 5 percentum of the established investment, the investor shall thereafter have the right, after written notice to the Secretary of his intention so to do, to convey to the Secretary, as of the first day of any operating year, title to the project which meets the requirements of the rules and regulations of the Secretary in force at the time the insurance contract was executed and which is evidenced in the manner prescribed by such rules and regulations, and to receive from the Secretary debentures having a total face value equal to 90 per centum of the outstanding investment for such operating year.

(c) Adjustment of difference between outstanding investment and total face value of debentures

Any difference, not exceeding $50, between 90 per centum of the outstanding investment for the operating year in which a project is acquired by the Secretary pursuant to this section and the total face value of the debentures to be issued and delivered to the investment pursuant to this section shall be adjusted by the payment of cash by the Secretary to the investor from the General Insurance Fund.

(d) Termination of insurance contract by Secretary

Upon the acquisition of a project by the Secretary pursuant to this section, the insurance contract shall terminate.

(e) Issuance and execution of debentures

Debentures issued under this subchapter to any investor shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary, by either his written or engraved signature, and shall be negotiable. Such debentures shall be dated as of the first day of the operating year in which the project for which such debentures were issued was acquired by the Secretary, shall bear interest at a rate to be determined by the Secretary, with the approval of the Secretary of the Treasury, at the time the insurance contract was executed, but not to exceed 2¾ per centum per annum, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature on the 1st day of July in such calendar year or years, not later than the fortieth following the date of the issuance thereof, as shall be determined by the Secretary and stated on the face of such debentures.

(f) Terms and conditions of debentures

Such debentures shall be in such form and in such denominations in multiples of $50, shall be subject to such terms and conditions, and may include such provisions of redemption as shall be prescribed by the Secretary, with the approval of the Secretary of the Treasury, and may be issued in either coupon or registered form.

(g) Exemption from taxation; exceptions; guaranty

Such debentures shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by any Territory, dependency, or possession of the United States, or by the District of Columbia, or by any State, county, municipality, or local taxing authority, shall be payable out of the General Insurance Fund, which shall be primarily liable therefor, and shall be fully and unconditionally guaranteed, as to both the principal thereof and the interest thereon, by the United States, and such guaranty shall be expressed on the face thereof. In the event that the General Insurance Fund fails to pay upon demand, when due, the principal of or the interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof, which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amount so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(h) Payment of expenses and charges; collection of claims

Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the General Insurance Fund, to pay out of said Fund all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit or lease in his discretion, in whole or in part, any project acquired pursuant to this subchapter; and, notwithstanding any other provisions of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by, or assigned or transferred to, him in connection with the acquisition or disposal of any project pursuant to this subchapter: *Provided,* That section 5 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of any project acquired pursuant to this subchapter if the amount of such purchase or contract does not exceed $1,000.

(June 27, 1934, ch. 847, title VII, § 708, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1278, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(t), 79 Stat. 506; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (f) and (h) of this section.

1965—Subsecs. (c), (e), (g), (h). Pub. L. 89-117 substituted "General Insurance Fund" for "Housing Investment Insurance Fund" wherever appearing.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1747f, 1747h of this title.

§ 1747h. Termination of insurance contract by investor

The investor, after written notice to the Secretary of his intention so to do, may terminate, as of the close of any operating year, any insurance contract made pursuant to this subchapter. The Secretary shall prescribe the events and conditions under which said Secretary shall have the option to terminate any insurance contract made pursuant to this subchapter, and the events and conditions under which said Secretary may reinstate any insurance contract terminated pursuant to this section or section 1747g(a) of this title. If any insurance contract is terminated pursuant to this section, the Secretary may require the investor to pay an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges which such investor otherwise would have been required to pay if such insurance contract had not been so terminated.

(June 27, 1934, ch. 847, title VII, § 709, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1280, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1747i. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VII, § 710, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1280, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59, created the Housing Investment Insurance Fund, provided for the transfer of funds thereto, and authorized the payment of claims and the issue and cancellation of debentures.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1747j. Taxation of real property

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Secretary under this subchapter from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title VII, § 711, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1281, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1747k. Rules and regulations

The Secretary may make such rules and regulations as may be necessary or desirable to carry out the provisions of this subchapter, including, without limiting the foregoing, rules and regulations relating to the maintenance by the investor of books, records, and accounts with respect to the project and the examination of such books, records, and accounts by representatives of the Secretary; the submission of financial and operating statements and the approval thereof; the submission of claims for payments under insurance contracts, the proof of the validity of such claims, and the payment or disallowance thereof; the increase of the established investment if the investor shall make capital improvements or additions to the project; the decrease of the established investment if the investor shall sell part of the project; and the reduction of the outstanding investment for the appropriate operating year or operating years pending the restoration of dwelling or nondwelling facilities damaged by fire or other casualty. With respect to any investor which is subject to supervision or regulation by a State banking, insurance, or other State department or agency, the Secretary may, in carrying out any of his supervisory and regulatory functions with respect to projects insured under this subchapter, utilize, contract with, and act through, such department or agency and without regard to section 5 of title 41.

(June 27, 1934, ch. 847, title VII, § 712, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1281, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

§ 1747*l*. Definitions

The following terms shall have the meanings, respectively, ascribed to them below, and, unless the context clearly indicates otherwise, shall include the plural as well as the singular number:

(a) "Investor" shall mean (1) any natural person; (2) any group of not more than ten natural persons; (3) any corporation, company, as-

sociation, trust, or other legal entity; or (4) any combination of two or more corporations, companies, associations, trusts, or other legal entities, having all the powers necessary to comply with the requirements of this subchapter, which the Secretary (i) shall find to be qualified by business experience and facilities, to afford assurance of the necessary continuity of long-term investment, and to have available the necessary capital required for long-term investment in the project, and (ii) shall approve as eligible for insurance under this subchapter.

(b) "Project" shall mean a project (including all property, real and personal, contracts, rights, and choses in action acquired, owned, or held by the investor in connection therewith) of an investor designed and used primarily for the purpose of providing dwellings the occupancy of which is permitted by the investor in consideration of agreed charges: *Provided,* That nothing in this subchapter shall be construed as prohibiting the inclusion in a project of such stores, offices, or other commercial facilities, recreational or community facilities, or other nondwelling facilities as the Secretary shall determine to be necessary or desirable appurtenances to such project.

(c) "Estimated investment" shall mean the estimated cost of the development of the project, as stated in the application submitted to the Secretary for insurance under this subchapter.

(d) "Established investment" shall mean the amount of the reasonable costs, as approved by the Secretary, incurred by the investor in, and necessary for, carrying out all works and undertakings for the development of a project and shall include the premium charge for the first operating year and the cost of all necessary surveys, plans and specifications, architectural, engineering, or other special services, land acquisition, site preparation, construction, and equipment; a reasonable return on the funds of the investor paid out in the course of the development of the project, up to and including the initial occupancy date; necessary expenses in connection with the initial occupancy of the project; and the cost of such other items as the Secretary shall determine to be necessary for the development of the project, (1) less the amount by which the rents and revenues derived from the project up to and including the initial occupancy date exceeded the reasonable and proper expenses, as approved by the Secretary, incurred by the investor in, and necessary for, operating and maintaining said project up to and including the iniital occupancy date, or (2) plus the amount by which such expenses exceeded such rents and revenues, as the case may be.

(e) "Physical completion date" shall mean the last day of the calendar month in which the Secretary determines that the construction of the project is substantially completed and substantially all of the dwellings therein are available for occupancy.

(f) "Initial occupancy date" shall mean the last day of the calendar month in which 90 per centum in number of the dwellings in the project on the physical completion date shall have been occupied, but shall in no event be later than the last day of the sixth calendar month next following the physical completion date.

(g) "Operating year" shall mean the period of twelve consecutive calendar months next following the initial occupancy date and each succeeding period of twelve consecutive calendar months, and the period of the first twelve consecutive calendar months next following the initial occupancy date shall be the first operating year.

(h) "Gross income" for any operating year shall mean the total rents and revenues and other income derived from, or in connection with, the project during such operating year.

(i) "Operating expenses" for any operating year shall mean the amounts, as approved by the Secretary, necessary to meet the reasonable and proper costs of, and to provide for, operating and maintaining the project, and to establish and maintain reasonable and proper reserves for repairs, maintenance, and replacements, and other necessary reserves during such operating year, and shall include necessary expenses for real estate taxes, special assessments, premium charges made pursuant to this subchapter, administrative expenses, the annual rental under any lease pursuant to which the real property comprising the site of the project is held by the investor, and insurance charges, together with such other expenses as the Secretary shall determine to be necessary for the proper operation and maintenance of the project, but shall not include income taxes.

(j) "Net income" for any operating year shall mean gross income remaining after the payment of the operating expenses.

(k) "Minimum annual amortization charge" shall mean an amount equal to 2 per centum of the established investment, except that, in the case of a project where the real property comprising the site thereof is held by the investor under a lease, if (notwithstanding the proviso of section 1747b(a) of this title) the gross income for any operating year shall be less than the amount required to pay the operating expenses (including the annual rental under such lease), the minimum annual amortization charge for such operating year shall mean an amount equal to 2 per centum of the established investment plus the amount of the annual rental under such lease to the extent that the same is not paid from the gross income.

(*l*) "Annual return" for any operating year shall mean the net income remaining after the payment of the minimum annual amortization charge.

(m) "Insured annual return" shall have the meaning ascribed to it in section 1747 of this title.

(n) "Minimum annual return" for any operating year shall mean an amount equal to 3½ per centum of the outstanding investment for such operating year or such lesser amount as shall be agreed upon by the investor and the Secretary.

(o) "Excess earnings" for any operating year shall mean the net income derived from a project in excess of the minimum annual amortization charge and the minimum annual return and income taxes.

(p) "Outstanding investment" for any operating year shall mean the established investment,

less an amount equal to (1) the aggregate of the minimum annual amortization charge for each preceding operating year, plus (2) the aggregate of the excess earnings, if any, during each preceding operating year applied, in addition to the minimum annual amortization charge, to amortization in accordance with the provisions of section 1747d of this title.

(q) "State" shall include the several States and Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(June 27, 1934, ch. 847, title VII, § 713, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1281, and amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title VI, §§ 610, 612, 65 Stat. 316; July 14, 1952, ch. 723, § 10(a)(4), 66 Stat. 603; June 25, 1959, Pub. L. 86-70, § 10(a), 73 Stat. 142; July 12, 1960, Pub. L. 86-624, § 6, 74 Stat. 411; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (e), (i), and (n) of this section.

1960—Subsec. (q). Pub. L. 86-624 eliminated "Hawaii," preceding "Puerto Rico".

1959—Subsec. (q). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii".

1952—Subsec. (q). Act July 14, 1952, added subsec. (q).

1951—Subsec. (n). Act Sept. 1, 1951, § 610, inserted "or such lesser amount as shall be agreed upon by the investor and the Commissioner".

Subsec. (o). Act Sept. 1, 1951, § 612, inserted "and income taxes".

TRANSFER OF FUNCTIONS

"Commissioner" was substituted for "Administrator" by act Apr. 20, 1950. See 1950 Amendment note and the Transfer of Functions note set out under section 1702 of this title.

SUBCHAPTER VIII—ARMED SERVICES HOUSING MORTGAGE INSURANCE

AMENDMENTS

1955—Act Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646, amended subchapter heading, substituting "Armed Services" for "Military" and adding the word "Mortgage".

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1430, 1702, 1715f, 1715h, 1717, 1720, 1731a, 1743 of this title; title 50 App. section 1216.

§ 1748. Definitions

As used in this subchapter—

(a) The term "mortgage" means a first mortgage on real estate, in fee simple, or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable; or (2) under a lease for a period of not less than fifty years to run from the date the mortgage was executed; and the term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby.

(b) The term "mortgagee" includes the original lender under a mortgage, and his successors and assigns approved by the Secretary; and the term "mortgagor" includes the original borrower under a mortgage, his successors and assigns.

(c) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(d) The term "housing accommodations" means housing designed for occupancy by military personnel and their dependents, assigned to duty at or near the military installation where such housing units are constructed.

(e) The term "personnel" shall include military and civilian personnel approved by the Secretary of Defense, or his designee, and the dependents of all such personnel.

(f) The term "military" includes Army, Navy, Marine Corps, Air Force, and Coast Guard.

(g) The term "State" includes the several States, and Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and Midway Island.

(June 27, 1934, ch. 847, title VIII, § 801, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 570, and amended July 14, 1952, ch. 723, § 10(a)(2), 66 Stat. 603; Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646; Aug. 7, 1956, ch. 1029, title V, § 501, 70 Stat. 1109; June 25, 1959, Pub. L. 86-70, § 10 (a), 73 Stat. 142; July 12, 1960, Pub. L. 86-624, § 6, 74 Stat. 411; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1960—Subsec. (g). Pub. L. 86-624 eliminated "Hawaii," preceding "Puerto Rico".

1959—Subsec. (g). Pub. L. 86-70 eliminated "Alaska," preceding "Hawaii".

1956—Subsec. (g). Act Aug. 7, 1956, added the Canal Zone and Midway Island.

1955—Act Aug. 11, 1955, inserted the definitions of "housing accommodations" and "personnel" and included the Coast Guard in the definition of "military".

1952—Subsec. (f). Act July 14, 1952, inserted "Guam," after "District of Columbia,".

SAVINGS PROVISIONS

Section 408 of act Aug. 11, 1955, as amended by act Aug. 7, 1956, § 511, provided that: "Notwithstanding the provisions of section 401 of this Act [amending this subchapter], the provisions of title VIII of the National Housing Act [this subchapter] in effect prior to the enactment of the Housing Amendments of 1955 [August 11, 1955] shall continue in full force and effect with respect to all mortgages insured pursuant to a certification by the Secretary of Defense or his designee made on or before June 30, 1955, and a commitment to insure issued on or before June 30, 1956 or pursuant to a certification by the Atomic Energy Commission or its designee made on or before June 30, 1956, except that the maximum dollar amount for each such mortgage shall be $12,500,000.] Nothing contained in the provisions of title VIII of the National Housing Act [this subchapter] in effect prior to August 11, 1955 or any related provision of law, shall be construed to exempt from State or local taxes or assessments the interest of a lessee from the Federal Government in or with respect to any property covered by a mortgage insured under such provisions of title VIII: *Provided*, That, no such taxes or assessments (not paid or encumbering such property or interest prior to June 15, 1956) on the interest of such lessee shall exceed the amount of taxes or assessments on other similar property of similar value, less such amount as the Secretary of Defense or his designee determines to be equal to (1) any payments made by the

Federal Government to the local taxing or other public agencies involved with respect to such property, plus (2) such amount as may be appropriate for any expenditures made by the Federal Government or the lessee for the provision or maintenance of streets, sidewalks, curbs, gutters, sewers, lighting, snow removal or any other services or facilities which are customarily provided by the State, county, city, or other local taxing authority with respect to such other similar property: *And provided further,* That the provisions of this section shall not apply to properties leased pursuant to the provisions of section 805 of the National Housing Act [12 U.S.C. 1748d] as amended on or after August 11, 1955, which properties shall be exempt from State or local taxes or assessments."

COAST GUARD

Subchapter as applicable to Coast Guard, see section 1594e of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1748h-1, 1748h-2 of this title.

§ 1748a. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VIII, § 802, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 570, and amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 647, created the Armed Services Housing Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1748b. Insurance of mortgages

(a) Aggregate amount of insurance; termination date

In order to assist in relieving the acute shortage and urgent need for family housing which now exists at or in areas adjacent to military installations because of uncertainty as to the permanency of such installations and to increase the supply of necessary family housing accommodations for personnel at such installations, the Secretary is authorized, upon application of the mortgagee, to insure mortgages (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for so insuring such mortgages prior to the date of their execution or disbursement thereon: *Provided,* That the aggregate amount of principal obligations of all mortgages insured under this subchapter (except mortgages insured pursuant to the provisions of this subchapter in effect prior to August 11, 1955) shall not exceed $2,300,000,000: *And provided further,* That the limitation in section 1715h of this title shall not apply to this subchapter: *And provided further,* That no more mortgages shall be insured under this section after October 1, 1962, except pursuant to a commitment to insure before such date, and not more than twenty-eight thousand family housing units shall be contracted for after June 30, 1959, pursuant to any mortgage insured under this section after such date.

(b) Eligibility for insurance

To be eligible for insurance under this subchapter a mortgage shall meet the following conditions:

(1) The mortgaged property shall be held by a mortgagor approved by the Secretary. The Secretary may, in his discretion, require such mortgagor to be regulated or restricted as to capital structure, and methods of operation. The Secretary may make such contracts with, and acquire for not to exceed $100 stock or interest in, any such mortgagor, as the Secretary may deem necessary to render effective such restriction or regulation. Such stock or interest shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgaged property shall be designed for use for residential purposes by personnel of the armed services and situated at or near a military installation, and the Secretary of Defense or his designee shall have certified that there is no intention, so far as can reasonably be foreseen, to substantially curtail the personnel assigned or to be assigned to such installation, and (i) shall have determined that for reasons of safety, security, or other essential military requirements, it is necessary that the personnel involved reside in public quarters; *Provided, however,* That for the purposes of this subsection housing covered by a mortgage insured, or for which a commitment to insure has been issued, under this section prior to August 11, 1955 may be considered the same as available quarters, and (ii) with the approval of the Secretary, shall have determined that adequate housing is not available for such personnel at reasonable rentals within reasonable commuting distance of the installation and that the mortgaged property will not, so far as can reasonably be foreseen, substantially curtail occupancy in existing housing covered by mortgages insured under this chapter. The housing accommodations shall comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of such property for mortgage insurance, except that the certification of the Secretary of Defense or his designee shall (for purposes of mortgage insurance under this subchapter) be conclusive evidence to the Secretary of the existence of the need for such housing. However, if the Secretary does not concur in the housing needs as certified by the Secretary of Defense, the Secretary may require the Secretary of Defense to guarantee the General Insurance Fund against loss with respect to the mortgage covering such housing. The Secretary shall report to the Committees on Banking and Currency of the Senate and the House of Representatives each instance in which he has required the Secretary of Defense to guarantee the General Insurance Fund, with reasons therefor. There are authorized to be appropriated such sums as may be necessary to provide for payment to meet losses arising from such guaranty.

(3) The mortgage shall involve a principal obligation in an amount—

(A) not to exceed the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the cost of the property or project as such term is used in this paragraph may include the cost of the land, the physical improve-

ments, and utilities within the boundaries of the property or project);

(B) not to exceed an average of $16,500 per family unit for such part of such property or project (including ranges, refrigerators, shades, screens, and fixtures) as may be attributable to dwelling use: *Provided,* That the replacement cost of the property or project as determined by the Secretary, including the estimated value of any usable utilities within the boundaries of the property or project where owned by the United States and not provided for out of the proceeds of the mortgage, shall not exceed an average of $16,500 per family unit: *Provided further,* That should the financing of housing to be constructed pursuant to a single invitation for bids be accomplished by two or more mortgages, the principal obligation of any single mortgage may exceed an average of $16,500 per family unit if the sum of the principal obligations of all mortgages for such housing does not exceed an average of $16,500 per family unit: *And provided further,* That subject to the limitations of this paragraph no family unit included in any mortgaged property shall be contracted for after June 8, 1960 if the cost of such unit exceeds $19,800; and

(C) not to exceed the bid of the eligible bidder with respect to the property or project under section 1594 of title 42.

The mortgage shall provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe, but not to exceed thirty years from the beginning of amortization of the mortgage, and shall bear interest (exclusive of premium charges for insurance) as not to exceed 4½ per centum per annum of the amount of the principal obligation outstanding at any time. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release. The property or project may include such nondwelling facilities as the Secretary deems adequate to serve the occupants.

(c) Premium charges

The Secretary is authorized to fix a premium charge for the insurance of mortgages under this subchapter but in the case of any mortgage such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1½ per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this subchapter at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided,* That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds, upon the presentation of a mortgage for insurance and the tender of the initial premium charge and such other charges as the Secretary may require, that the mortgage complies with the provisions of this subchapter, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe. In the event that the principal obligation of any mortgage accepted for insurance under this subchapter is paid in full prior to the maturity date, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid. The Secretary may reduce the payment of premiums provided for herein. The Secretary is further authorized to reduce the amount of the premium charge below one-half of 1 per centum per annum with respect to any mortgage on property acquired by the Secretary of Defense or his designee if the mortgage is insured pursuant to the provisions of this subchapter as in effect prior to August 11, 1955.

(d) Default by mortgagor; rights of mortgagee

The failure of the mortgagor to make any payment due under or provided to be paid by the terms of a mortgage insured under this subchapter shall be considered a default under such mortgage, and, if such default continues for a period of thirty days, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon assignment, transfer, and delivery to the Secretary, within a period and in accordance with rules and regulations to be prescribed by the Secretary of (1) all rights and interest arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transactions; (3) all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; (4) any balance of the mortgage loan not advanced to the mortgagor; (5) any cash or property held by the mortgagee, or to which it is entitled, as deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and (6) all records, documents, books, papers, and accounts relating to the mortgage transaction. Upon such assignment, transfer, and delivery, the obligation of the mortgagee to pay the premium charges for mortgage insurance shall cease, and the Secretary shall, subject to the cash adjustment provided for in subsection (e) of this section, issue to the mortgagee debentures having a total face value equal to the value of the mortgage, and a certificate of claim as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of default, the amount the mortgagee may have paid for (A) taxes, special assessments, and water rates, which are liens prior to the mortgage; (B) insurance on the property; and (C) reasonable expenses for the completion and preservation of the property and any mortgage insurance premiums paid after default; less the sum of (i) any amount received on account of the mortgage after such

date; and (ii) any net income received by the mortgagee from the property after such date.

(e) Debentures; issuance; form and denomination

Debentures issued under this subchapter shall be in such form and denominations in multiples of $50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the value of the mortgage determined as herein provided and the aggregate face value of the debentures issued, not to exceed $50, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the General Insurance Fund.

(f) Debentures; execution; signature; negotiability; interest rate; tax exemption; guarantee

Debentures issued under this subchapter shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary, by either his written or engraved signature, and shall be negotiable. All such debentures shall be dated as of the date of default as determined in accordance with subsection (d) of this section, and shall bear interest from such date at a rate established by the Secretary pursuant to section 1715*o* of this title, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by any Territory, dependency, or possession of the United States or by the District of Columbia, or by any State, county, municipality, or local taxing authority. They shall be paid out of the General Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and such guaranty shall be expressed on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(g) Claim certificates

The certificate of claim issued by the Secretary to any mortgagee in connection with the insurance of mortgages under this subchapter shall be for an amount determined in accordance with subsections (e) and (f) of section 1739 of this title, except that any amount remaining after the payment of the full amount under the certificate of claim shall be retained by the Secretary and credited to the General Insurance Fund.

(h) Laws applicable

The provisions of section 1713(k) and (*l*) of this title shall be applicable to mortgages insured under this subchapter and to property acquired by the Secretary hereunder, except that as applied to such mortgages and property, the reference in section 1713(k) of this title to subsection (g) shall be construed to refer to subsection (d) of this section.

(i) Secretary's additional powers to insure certain mortgages

The Secretary shall also have power to insure under this subchapter or subchapter II of this chapter any mortgage executed in connection with the sale by him of any property acquired under this subchapter without regard to any limit as to eligibility, time or aggregate amount contained in this subchapter or subchapter II of this chapter.

(j) Conclusiveness and validity of insurance contract

Any contract of insurance executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the mortgage for insurance and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(k) Certification as to overtime wages paid to laborers and mechanics

The Secretary shall not insure any mortgage under this section unless the principal contractor or contractors engaged in the construction of the project involved file a certificate or certificates (at such times, in the course of construction or otherwise, as the Secretary may prescribe) certifying that the laborers and mechanics employed in the construction of such project have been paid not less than one and one-half times the regular rate of pay for employment in excess of eight hours in any one day or in excess of forty hours in any one week.

(June 27, 1934, ch. 847, title VIII, § 803, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 571, and amended Sept. 1, 1951, ch. 378, title VI, § 601(a)-(c), 65 Stat. 312; June 30, 1953, ch. 170, § 10, 67 Stat. 124; June 29, 1954, ch. 410, § 1(2), 68 Stat. 320; Aug. 2, 1954, ch. 649, title I, §§ 112(c), 128(a), 130, 68 Stat. 593, 609; June 30, 1955, ch. 251, § 1(2), 69 Stat. 225; Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 647; Aug. 7, 1956, ch. 1029, title V, §§ 502-506(a), 70 Stat. 1109; July 12, 1957, Pub. L. 85-104, title I, § 108(c), title V, §§ 501, 502, 71 Stat. 297, 303; Apr. 1, 1958, Pub. L. 85-364, § 3(b), 72 Stat. 73; Aug. 10, 1959, Pub. L. 86-149, title IV, § 414(a), 73 Stat. 322; Sept. 23, 1959, Pub. L. 86-372, title VII, § 701, 73 Stat. 682; June 8, 1960, Pub. L. 86-500, title V, § 507(a), (c), 74 Stat. 185, 186; June 27, 1961, Pub. L. 87-57, title VI, § 607(a), 75 Stat. 111; June 30, 1961, Pub. L. 87-70, title VI, § 604(d), 75 Stat. 177; Aug. 31, 1962, Pub. L. 87-623, § 1, 76 Stat. 418; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(u), 79 Stat. 506; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (p), 81 Stat. 17, 19.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in sub-

secs. (a), (b)(1), (2), (3)(A), (B), following (C), and (c) to (k) of this section.

Subsec. (b)(2). Pub. L. 90-19, § 1(p)(1) to (4), substituted "Secretary of Defense" for "Secretary" in the first, third, and fourth sentences.

1965—Subsecs. (b)(1), (b)(2), (e), (f), (g). Pub. L. 89-117, § 1108(u)(1), substituted "General Insurance Fund" for "Armed Services Housing Mortgage Insurance Fund" wherever appearing.

Subsec. (h). Pub. L. 89-117, § 1108(u)(2), struck out provision that, as applied to mortgages insured under this subchapter and to property acquired by the Commissioner hereunder, reference in subsections (k) and (*l*) of section 1713 of this title to the "Housing Fund" shall be construed to refer to the "Armed Services Housing Mortgage Insurance Fund".

1962—Subsec. (a). Pub. L. 87-623 substituted "mortgages shall be insured under this section after October 1, 1962" for "mortgages shall be insured under this subchapter after October 1, 1962".

1961—Subsec. (a). Pub. L. 87-70 made the identical amendment provided for in Pub. L. 87-57.

Pub. L. 87-57 substituted "October 1, 1962" for "October 1, 1961", and "twenty-eight thousand family units" for "twenty-five thousand family housing units".

1960—Subsec. (a). Pub. L. 86-500, § 507(a), substituted "twenty-five thousand family housing units" for "twenty thousand family housing units".

Subsec. (b)(3). Pub. L. 86-500, § 507(c), added proviso prohibiting, subject to the limitations of par. (B), the contracting for any family unit included in any mortgaged property after June 8, 1960, if the cost of the unit exceeds $19,800.

1959—Subsec. (a). Pub. L. 86-372, § 701(a), substituted "October 1, 1961" for "September 30, 1960".

Pub. L. 86-149 inserted provisions in subsec. (a) to prohibit insurance of mortgages under this subchapter after Sept. 30, 1960, and to limit the number of housing units which may be contracted for after June 30, 1959 to not more than 20,000.

Subsec. (b)(3). Pub. L. 86-372, § 701(b), (c), substituted "but not to exceed thirty years from the beginning of amortization of the mortgage" for "have a maturity of not to exceed twenty-five years", and inserted provisions authorizing the property or project to include such nondwelling facilities as the Commission deems adequate to serve the occupants.

Subsec. (c). Pub. L. 86-372, § 701(d), authorized the Commissioner to reduce the amount of the premium charge below one-half of 1 per centum per annum with respect to any mortgage on property acquired by the Secretary of Defense or his designee if the mortgage is insured pursuant to the provisions of this subchapter as in effect prior to August 11, 1955.

Subsec. (k). Pub. L. 86-372, § 701(e), added subsec. (k).

1958—Subsec. (b). Pub. L. 85-364 increased the maximum amount of interest from 4 to 4½ per centum per annum.

1957—Subsec. (a). Pub. L. 85-104, § 501, substituted "June 30, 1959" for "June 30, 1958".

Subsec. (b)(3)(B). Pub. L. 85-104, § 502, added proviso that should financing of housing to be constructed pursuant to a single invitation for bids be accomplished by two or more mortgages, any single mortgage may exceed an average of $16,500 if sum of all mortgages for such housing does not exceed average of $16,500.

Subsec. (f). Pub. L. 85-104, § 108(c), substituted, in the second sentence, "established by the Commissioner pursuant to section 1715o of this title" for "determined by the Commissioner with the approval of the Secretary of the Treasury, at the time the mortgage was accepted for insurance, but not to exceed 3 per centum per annum".

1956—Subsec. (a). Act Aug. 7, 1956, §§ 502 and 503, inserted "(except mortgages insured pursuant to the provisions of this subchapter in effect prior to August 11, 1955)" and substituted "$2,300,000" for "$1,363,500,000" in the first proviso and "June 30, 1958" for "September 30, 1956" in the third proviso.

Subsec. (b)(2). Act Aug. 7, 1956, § 504, required approval of Commissioner, with determination of Secretary, that new units will not substantially curtail occupancy in existing houses covered by mortgages insured under this chapter, and provided that if Commissioner requires Secretary to guarantee the armed services housing mortgages insurance fund from loss, he shall report to the Committees on Banking and Currency of the Senate and House of Representatives each instance in which he required such a guarantee.

Subsec. (b)(3)(B). Act Aug. 7, 1956, § 505, substituted "$16,500" for "$13,500" in two places, and inserted "(including ranges, refrigerators, shades, screens, and fixtures)".

Subsec. (b)(3)(C). Act Aug. 7, 1956, § 506(a), substituted "eligible bidder with respect to" for "eligible builder of".

1955—Subsec. (a). Act Aug. 11, 1955, increased the authorization from $500,000,000 to $1,363,500,000, and extended from June 30, 1955, to September 30, 1956, the period within which mortgages can be insured.

Act June 30, 1955, extended the termination date, with respect to authority to insure, from June 30, 1955, to July 31, 1955.

Subsec. (b). Act Aug. 11, 1955, authorized issuance of insurance for units necessary for reasons of safety, security, or other essential military requirements, or where adequate housing is not available at reasonable rentals within reasonable commuting distance, limited the amount of the mortgage to not more than the replacement cost of the property or project, restricted the amount of the mortgage to not more than an average of $13,500 for a family unit, and required the mortgage to mature in not more than 25 years.

Subsec. (c). Act Aug. 11, 1955, eliminated the authorization of the Commissioner to require the payment by the mortgagee of an adjusted premium charge in the event that the principal obligation of the mortgage is paid in full prior to the maturity date.

Subsec. (d). Act Aug. 11, 1955, eliminated provisions which authorized the mortgagee to proceed to foreclose the mortgage in the event of a default, and which granted the mortgagee the right to elect the benefits of the insurance when the United States acquires, or commences condemnation proceedings to acquire, all or a substantial part, of the mortgaged property.

Subsecs. (e) to (h). Act Aug. 11, 1955, substituted "Armed Services Housing Mortgage Insurance Fund" for "Military Housing Insurance Fund," wherever appearing therein.

Subsec. (i). Act Aug. 11, 1955, eliminated the power of the Commissioner to insure under subchapter VI of this chapter.

Subsec. (j). Act Aug. 11, 1955, reenacted provisions without change.

Subsec. (k). Act Aug. 11, 1955, omitted provisions which authorized utilization of the powers of the Federal National Mortgage Association and of any other Federal corporation or other Federal agency to purchase, service, or sell any mortgages, or partial interest therein.

1954—Subsec. (a). Acts Aug. 2, 1954, § 128(a), and June 29, 1954, extended the termination date, with respect to authority to insure, from July 31, 1954, to June 30, 1955, and from July 1, 1954, to July 31, 1954, respectively.

Subsec. (b). Act Aug. 2, 1954, § 130, in the par. immediately following subpar. (C) of par. (3) of the subsection, substituted the requirement that the mortgagor shall enter into the agreement required by section 1715r of this title for former provisions relating to certification of builders' costs, the certifications now being prescribed into section 1715r.

Subsec. (f). Act Aug. 2, 1954, § 112(c), in second sentence, substituted a twenty-year period for the ten-year period, with respect to the maturity of debentures.

1953—Subsec. (a). Act June 30, 1953, § 10(a), in second proviso substituted "July 1, 1954" for "July 1, 1953".

Subsec. (b). Act June 30, 1953, § 10(b), (c), inserted par. commencing "The mortgagor shall agree"; and, in first sentence of par. commencing "The mortgage shall provide", substituted "4½ per centum" for "4 per centum".

1951—Subsec. (a). Act Sept. 1, 1951, § 601(a), substituted "July 1, 1953" for "July 1, 1951" in second proviso.

Subsec. (b)(3)(C). Act Sept. 1, 1951, § 601(b), inserted the proviso.

Subsec. (d). Act Sept. 1, 1951, § 601(c), inserted the reference to the Atomic Energy Commission in last sentence.

RETROACTIVE EFFECT OF 1954 AMENDMENT

Amendment to subsec. (f) of this section by act Aug. 2, 1954 as not applicable in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to August 2, 1954, see note under section 1710 of this title.

EFFECTIVE DATE OF 1951 AMENDMENT

Act Sept. 1, 1951, § 601(a), further provided that the amendment made to subsec. (a) shall be effective as of July 1, 1951.

CHANGE OF NAME

The Committee on Banking and Currency of the Senate is now designated as the Committee on Banking, Housing, and Urban Affairs pursuant to Senate Resolution 4, approved Feb. 4, 1977.

The Committee on Banking and Currency of the House is now designated as the Committee on Banking, Finance and Urban Affairs, pursuant to House Resolution 5, 95th Congress, effective Jan. 4, 1977.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1731b, 1748h-1, 1748h-2, 1748h-3 of this title.

§ 1748c. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VIII, § 804, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 570, and amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 650, provided for the disposition and use of excess moneys in the Armed Services Housing Mortgage Insurance Fund, issue and cancellation of debentures, and receipt and payment of credits and charges.

§ 1748d. Lease of property; terms and conditions

Whenever the Secretary of the Army, Navy, or Air Force determines that it is necessary to lease any land held by the United States on or near a military installation to effectuate the purposes of this subchapter, he may lease such land upon such terms and conditions as will, in his opinion, best serve the national interest. The authority conferred by this section shall be in addition to and not in derogation of any other power or authority of the Secretary of the Army, Navy, or Air Force.

(June 27, 1934, ch. 847, title VIII, § 805, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 576, and amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 651.)

AMENDMENTS

1955—Act Aug. 11, 1955, eliminated specific references to sections authorizing leases of property, and eliminated the power to sell, transfer, and convey real property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1748h-1 of this title.

§ 1748e. Mortgages on property in Alaska

The second sentence of section 1715d of this title, as amended, relating to housing in the State of Alaska, shall not apply to mortgages insured under this subchapter on property in said State.

(June 27, 1934, ch. 847, title VIII, § 806, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 576, and amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 651; June 25, 1959, Pub. L. 86-70, § 10(d), 73 Stat. 143.)

REFERENCES IN TEXT

Section 1715d of this title, referred to in the text, read in the original "section 214 of the National Housing Act, as amended". Section 214 of that Act was classified originally to section 1715d of this title and to section 484d of Title 48, Territories and Insular Possessions. Section 484d of Title 48 has been omitted from the code.

AMENDMENTS

1959—Pub. L. 86-70 substituted "State" for "Territory" in two instances.

1955—Act Aug. 11, 1955, reenacted section without change.

§ 1748f. Rules and regulations

The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this subchapter.

(June 27, 1934, ch. 847, title VIII, § 807, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 576, and amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 651; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (q), 81 Stat. 17, 19.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" and struck out authorization for appointment by the Commissioner of a Special Assistant for Armed Services Housing for Mortgage Insurance with an adequate staff to expedite operations and eliminate administrative obstacles to this subchapter, respectively.

1955—Act Aug. 11, 1955, amended section generally by eliminating provisions which stated that nothing should be construed as exempting property from taxation, and inserting provisions authorizing the Commissioner to make rules and regulations and to appoint a Special Assistant.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1748h-1, 1748h-2 of this title.

§ 1748g. Cost certification

Except in the case of mortgages on multifamily rental housing projects insured under section 1748h-2 of this title, the cost certification required under section 1715r of this title shall not be required with respect to mortgages insured under the provisions of this subchapter.

(June 27, 1934, ch. 847, title VIII, § 808, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 576, and amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 651; Sept. 23, 1959, Pub. L. 86-372, title VII, § 704(b), 73 Stat. 686.)

AMENDMENTS

1959—Pub. L. 86-372 substituted "Except in the case of mortgages on multifamily rental housing projects

insured under section 1748h-2 of this title, the" for "The".

1955—Act Aug. 11, 1955, struck out provisions requiring cost certifications.

§§ 1748g-1, 1748h. Omitted

Section 1748g-1, act June 27, 1934, ch. 847, title VIII, § 810, as added Sept. 1, 1951, ch. 378, title VI, § 601(d), 65 Stat. 313, which related to mortgages on housing constructed for personnel of the Atomic Energy Commission, was omitted from the amendments to title VIII of act June 27, 1934, this subchapter, by act Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646.

Section 1748h, act June 27, 1934, ch. 847, title VIII, § 809, as added May 2, 1950, ch. 151, 64 Stat. 97, which related to the procurement of services of architects and engineers by the Secretaries of the Army, Navy and Air Force to effectuate the purposes of this subchapter, was omitted from the amendment to title VIII of act June 27, 1934, this subchapter, by act Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646.

§ 1748h-1. Civilian employees of armed services

(a) Requirements; certificate of need for housing and employment status

Notwithstanding any other provisions of this subchapter and in addition to mortgages insured under section 1748b of this title, the Secretary may insure any mortgage under this section which meets the eligibility requirements set forth in section 1709(b) of this title: *Provided,* That a mortgage insured under this section shall have been executed by a mortgagor who at the time of insurance is the owner of the property and either occupies the property or certifies that his failure to do so is the result of a change in his employment by the Armed Forces or a contractor thereof and to whom the Secretary of Defense or his designee has issued a certificate indicating that such person requires housing and is at the date of the certificate a civilian employee at a research or development installation of one of the military departments of the United States or a contractor thereof and is considered by such military department to be an essential, nontemporary employee at such date. Such certificate shall be conclusive evidence to the Secretary of the employment status of the mortgagor and of the mortgagor's need for housing.

(b) Certification of housing need to Secretary; guaranty from loss; authorization of appropriations

No mortgage shall be insured under this section unless the Secretary of Defense or his designee shall have certified to the Secretary that the housing is necessary to provide adequate housing for such civilians employed in connection with such a research or development installation and that there is no present intention to substantially curtail the number of such civilian personnel assigned or to be assigned to such installation. Such certification shall be conclusive evidence to the Secretary of the need for such housing but if the Secretary determines that insurance of mortgages on such housing is not an acceptable risk, he may require the Secretary of Defense to guarantee the General Insurance Fund from loss with respect to mortgages insured pursuant to this section: *Provided,* That the Secretary shall relieve the Secretary of Defense from any obligation to guarantee the General Insurance Fund from loss with respect to a mortgage assumed by a person ineligible to receive a certificate under subsection (a) of this section, if the original mortgagor is issued another certificate with respect to a mortgage insured under this section on property which the Secretary determines is not an acceptable risk. There are authorized to be appropriated such sums as may be necessary to provide for payment to meet losses arising from such guaranty.

(c) Economic soundness of property

The Secretary may accept any mortgage for insurance under this section without regard to any requirement in any other section of this chapter, that the project or property be economically sound or an acceptable risk.

(d) Insurance benefits to which mortgagee entitled

Any mortgagee under a mortgage insured under this section is entitled to the benefits of insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title.

(e) Payment of insurance; meaning of terms

The provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall apply to mortgages insured under this section except that as applicable to those mortgages: (1) all references to the "Fund" or "Mutual Mortgage Insurance Fund" shall refer to the "General Insurance Fund" and (2) all references to section 1709 of this title shall refer to this section.

(f) Provisions of subchapter applicable; termination date

The provisions of sections 1748, 1748a, 1748b(c), 1748b(i), 1748b(j), 1748c(a), 1748c(b), and 1748f of this title and the provisions of section 1748b(a) of this title relating to the aggregate amount of all mortgages insured under this subchapter, shall be applicable to mortgages insured under this section. No more mortgages shall be insured under this section after June 30, 1977, except pursuant to a commitment to insure before such date.

(g) Housing for persons employed by National Aeronautics and Space Administration or Atomic Energy Commission; guaranty from loss; definitions

(1) A mortgage secured by property which is intended to provide housing for a person (i) employed or assigned to duty at or in connection with any research or development installation of the National Aeronautics and Space Administration and which is located at or near such installation, or (ii) employed at any research or development installation of the Atomic Energy Commission and which is located at or near such installation, may (if the mortgage otherwise meets the requirements of this section) be insured by the Secretary under the provisions of this section. The Administrator of the National Aeronautics and Space Administration (or his designee), in the case of any mortgage secured by property intended to provide housing for any person employed or assigned to duty at any such installation of the National Aeronautics and Space Administration, or the Chairman of the Atomic Energy Commission (or his designee), in the case of any mortgage secured by property intended to provide housing for any person employed at such installa-

tion of the Atomic Energy Commission, is authorized to guarantee and indemnify the General Insurance Fund against loss to the extent required by the Secretary, in accordance with the provisions of subsection (b) of this section.

(2) For purposes of this subsection—

(i) The terms "Armed Forces", "one of the military departments of the United States", "military department", "Secretary of Defense or his designee", and "Secretary of Defense", when used in subsections (a) and (b) of this section, shall be deemed to refer to the National Aeronautics and Space Administration (or the Administrator thereof), or the Atomic Energy Commission (or the Chairman thereof), as may be appropriate;

(ii) The term "Secretary of the Army, Navy, or Air Force", when used in section 1748d of this title, shall be deemed to refer to the National Aeronautics and Space Administration or the Administrator thereof, as may be appropriate;

(iii) The terms "civilian employee", "civilians", and "civilian personnel", as used in this section, shall be deemed to refer to (A) employees of the National Aeronautics and Space Administration or a contractor thereof or to military personnel assigned to duty at an installation of the National Aeronautics and Space Administration, or (B) persons employed at or in connection with any research or development installation of the Atomic Energy Commission, as the case may be; and

(iv) The term "military installation" when used in section 1748d of this title shall be deemed to refer to an installation of the National Aeronautics and Space Administration.

(June 27, 1934, ch. 847, title VIII, § 809, as added June 13, 1956, ch. 381, 70 Stat. 273, and amended Sept. 23, 1959, Pub. L. 86-372, title I, § 116(b), 73 Stat. 664; July 5, 1960, Pub. L. 86-578, 74 Stat. 314; Sept. 13, 1960, Pub. L. 86-774, § 3, 74 Stat. 915; Aug. 31, 1962, Pub. L. 87-623, § 2, 76 Stat. 418; Sept. 23, 1963, Pub. L. 88-127, § 1, 77 Stat. 163; Aug. 10, 1965, Pub. L. 89-117, title II, § 202(c), title XI, § 1108(v), 79 Stat. 466, 506; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (r), 81 Stat. 17, 19; Sept. 30, 1969, Pub. L. 91-78, § 2(d), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title I, § 101(f), 83 Stat. 379; Oct. 2, 1970, Pub. L. 91-432, § 1(d), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91-473, § 1(d), 84 Stat. 1065; Dec. 1, 1970, Pub. L. 91-525, § 1(d), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91-609, title I, §§ 101(f), 112, 84 Stat. 1770, 1772; Oct. 18, 1972, Pub. L. 92-503, § 1(f), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93-85, § 1(f), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93-117, § 1(f), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93-383, title III, § 316(d), 88 Stat. 685.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Sections 1748a and 1748c of this title, referred to in subsec. (f), were repealed by Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507.

AMENDMENTS

1974—Subsec. (f). Pub. L. 93-383 substituted "June 30, 1977" for "October 1, 1974".

1973—Subsec. (f). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Subsec. (f). Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Subsec. (b). Pub. L. 91-609, § 112, inserted the proviso.

Subsec. (f). Pub. L. 91-609, § 101(f), substituted "October 1, 1972" for "January 1, 1971".

Pub. L. 91-525 substituted "January 1, 1971" for "December 1, 1970".

Pub. L. 91-473 substituted "December 1, 1970" for "November 1, 1970".

Pub. L. 91-432 substituted "November 1, 1970" for "October 1, 1970".

1969—Subsec. (f). Pub. L. 91-152 substituted "October 1, 1970" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (c) and (g)(1) of this section.

Subsec. (a). Pub. L. 90-19, § 1(r)(1), substituted "Secretary of Defense" for "Secretary".

Subsec. (b). Pub. L. 90-19, § 1(r)(1), (2), substituted "Secretary of Defense" for "Secretary" wherever appearing.

Subsec. (g)(2). Pub. L. 90-19, § 1(r)(3), (4), substituted "Secretary of Defense" for "Secretary" in cl. (i) and "the National Aeronautics and Space Administration" for "such Administration", wherever appearing, respectively.

1965—Subsecs. (b), (e). Pub. L. 89-117, § 1108(v), substituted "General Insurance Fund" for "Armed Services Housing Mortgage Insurance Fund" wherever appearing.

Subsec. (f). Pub. L. 89-117, § 202(c), substituted "October 1, 1969" for "October 1, 1965".

Subsec. (g). Pub. L. 89-117, § 1108(v), substituted "General Insurance Fund" for "Armed Services Housing Mortgage Insurance Fund" wherever appearing.

1963—Subsec. (f). Pub. L. 88-127, § 1(1), substituted "October 1, 1965" for "October 1, 1963".

Subsec. (g)(1). Pub. L. 88-127, § 1(2), substituted "or in connection with any" for "a", and deleted the requirement that such installation belong to a military department of the United States on or after June 13, 1956, before its transfer to the Administration, in clause (i), and extended clause (ii) to include persons at any installation of the Atomic Energy Commission instead of only the one in Los Alamos County, N. Mex.

Subsec. (g)(2)(iii). Pub. L. 88-127, § 1(3), extended clause (B) to include persons at any installation of the Atomic Energy Commission instead of only the one in Los Alamos, N. Mex.

1962—Subsec. (f). Pub. L. 87-623 provided that no mortgages shall be insured under this section after October 1, 1963, except pursuant to a commitment before such date, and deleted "and the expiration date of the Commissioner's authority to insure" following "amount of all mortgages insured".

1960—Subsec. (g). Pub. L. 86-774 designated part of existing provisions as par. (1), inserting therein clause (ii) and the words "in the case of any mortgage secured by property intended to provide housing for any person employed or assigned to duty at any such installation of the National Aeronautics and Space Administration, or the Chairman of the Atomic Energy Commission (or his designee), in the case of any mortgage secured by property intended to provide housing for any person employed at such installation of the Atomic Energy Commission" and deleting "in the case of mortgages referred to in this subsection" following "subsection (b) of this section", and designated clause (1) as par. (2)(i) and (ii), clause (2) as par. (2)(iii), adding therein subpar. (B), and clause (3) as par. (2)(iv).

Subsec. (g). Pub. L. 86-578 added subsec. (g).

1959—Subsec. (e). Pub. L. 86-372 inserted a reference to subsec. (k) to section 1710 of this title.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and its functions transferred pursuant to chapter 73 of Title 42, The Public Health and Welfare. See section 5814 of title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1720, 1748h-3 of this title.

§ 1748h-2. Insurance of mortgages for defense housing for impacted areas

(a) Authorization

Notwithstanding any other provision of this subchapter, the Secretary may insure and make commitments to insure any mortgage under this section which meets the eligibility requirements hereinafter set forth.

(b) Eligibility requirements

No mortgage shall be insured under this section unless (1) the housing which is covered by the insured mortgage is necessary in the interest of national security in order to provide adequate housing for (A) military personnel and essential civilian personnel serving or employed in connection with any installation of one of the armed services of the United States, or (B) essential personnel employed or assigned to duty at or in connection with any research or development installation of the National Aeronautics and Space Administration or of the Atomic Energy Commission, (2) there is no present intention to curtail substantially the number of such personnel assigned or to be assigned to the installation, (3) adequate housing is not available for such personnel at reasonable rentals within reasonable commuting distances of such installation, and (4) the mortgaged property will not so far as can be reasonably foreseen substantially curtail occupancy in any existing housing in the vicinity of the installation which is covered by mortgages insured under this chapter.

(c) Economical soundness of property or project

The Secretary may accept any mortgage for insurance under this section without regard to any requirement in any other section of this chapter that the property or project be economically sound.

(d) Rental conditions; preferences and priorities in the sale or rental of dwellings

The Secretary shall require each project covered by a mortgage insured under this section to be held for rental for a period of not less than five years after the project or dwelling is made available for initial occupancy or until he finds that the housing may be released from such rental condition. The Secretary shall prescribe such procedures as in his judgment are necessary to secure reasonable preference or priority in the sale or rental of dwellings covered by a mortgage insured under this section for military personnel and essential civilian employees of the armed services, employees of contractors for the armed services, and persons described in clause (1)(B) of subsection (b) of this section.

(e) Property held by mortgagor approved by Secretary; acquisition of stock or interest; redemption

For the purpose of providing multifamily rental housing projects or housing projects consisting of individual single-family dwellings for sale, the Secretary is authorized to insure mortgages (including advances on such mortgages during construction) which cover property held by a mortgagor approved by the Secretary. Any such mortgagor shall possess powers necessary therefor and incidental thereto and shall until the termination of all obligations of the Secretary under such insurance be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment. The Secretary may make such contracts with, and acquire for not to exceed $100 such stock or interest in, any such mortgagor as he may deem necessary to render effective such restriction or regulation. Such stock or interest shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(f) Mortgage limitations for multifamily rental property or project

To be eligible for insurance under this section, a mortgage on any multifamily rental property or project shall involve a principal obligation in an amount not to exceed, for such part of such property or project as may be attributable to dwelling use, $9,000 per family unit without a bedroom, $12,500 per family unit with one bedroom, $15,000 per family unit with two bedrooms, and $18,500 per family unit with three or more bedrooms, and not to exceed 90 per centum of the estimated value of the property or project when the proposed physical improvements are completed. The Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by not to exceed 45 per centum in any geographical area where he finds that cost levels so require.

(g) Mortgage limitation for property or project constructed for eventual sale of single-family dwellings

To be eligible for insurance under this section a mortgage on any property or project constructed for eventual sale of single-family dwellings shall involve a principal obligation in an amount not to exceed a sum computed on the basis of a separate mortgage for each single-family dwelling (irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling or dwellings) comprising the property or project equal to the total of each of the maximum principal obligations of such mortgages which would meet the requirements of section 1709(b)(2) of this title if the mortgagor were the owner and occupant who had made the required payment on account of the property prescribed in such paragraph.

(h) Amortization; interest; release of part of mortgaged property from lien; replacement of certain mortgages by individual mortgages; commercial and community facilities

Any mortgage insured under this section shall provide for complete amortization by periodic payments within such terms as the Secretary may prescribe but not to exceed the maxi-

mum term applicable to mortgages under section 1713 of this title and shall bear interest (exclusive of premium charges for insurance) at not to exceed the rate applicable to mortgages insured under section 1713 of this title, except that individual mortgages of the character described in subsection (g) of this section covering the individual dwellings in the project may have a term not in excess of the maximum term applicable to mortgages insured under section 1709 of this title or the unexpired term of the project mortgage at the time of the release of the mortgaged property from such project mortgage, whichever is the greater, and shall bear interest at not to exceed the rate applicable to mortgages insured under section 1709 of this title. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release, and a mortgage of the character described in subsection (g) of this section may provide that, at any time after the release of the project from the rental period prescribed by subsection (d) of this section, such mortgage may be replaced, in whole or in part, by individual mortgages covering each individual dwelling in the project in amounts not to exceed the unpaid balance of the blanket mortgage allocable to the individual property. Each such individual mortgage may be insured under this section. Property covered by a mortgage insured under this section may include eight or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants.

(i) Limitation on aggregate number of dwelling units

The aggregate number of dwelling units (including all units in multifamily projects or individual dwellings) covered by outstanding commitments to insure and mortgages insured under this section shall at no time exceed five thousand dwelling units.

(j) Applicability of other laws

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall be applicable to mortgages insured under this section except individual mortgages of the character described in subsection (g) of this section covering the individual dwellings in the project, and as to such individual mortgages the provisions of subsections (a), (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall be applicable: *Provided,* That wherever the words "Fund" or "Mutual Mortgage Insurance Fund" appear in section 1710 of this title, such reference shall refer to the General Insurance Fund with respect to mortgages insured under this section.

(k) Aggregate amount of mortgages insured; termination date

The provisions of sections 1748, 1748a, 1748b(c), 1748b(i), 1748b(j), 1748c(a), 1748c(b), and 1748f of this title and the provisions of section 1748b(a) of this title relating to the aggregate amount of all mortgages insured under this subchapter shall be applicable to mortgages insured under this section. No more mortgages shall be insured under this section after June 30, 1977, except pursuant to a commitment to insure before such date.

(June 27, 1934, ch. 847, title VIII, § 810, as added Sept. 23, 1959, Pub. L. 86-372, title VII, § 704(a), 73 Stat. 683, and amended June 30, 1961, Pub. L. 87-70, title VI, § 611(a), 75 Stat. 180; Aug. 31, 1962, Pub. L. 87-623, § 3, 76 Stat. 418; Sept. 23, 1963, Pub. L. 88-127, § 2, 77 Stat. 163; Sept. 2, 1964, Pub. L. 88-560, title I, § 107(f), 78 Stat. 776; Aug. 10, 1965, Pub. L. 89-117, title II, § 202(c), title XI, § 1108(w), 79 Stat. 466, 506; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title XVII, § 1722(f), 82 Stat. 611; Sept. 30, 1969, Pub. L. 91-78, § 2(e), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title I, § 101(g), 83 Stat. 379; Oct. 2, 1970, Pub. L. 91-432, § 1(e), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91-473, § 1(e), 84 Stat. 1065; Dec. 1, 1970, Pub. L. 91-525, § 1(e), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91-609, title I, § 101(g), 84 Stat. 1770; Oct. 18, 1972, Pub. L. 92-503, § 1(g), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93-85, § 1(g), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93-117, § 1(g), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93-383, title III, §§ 304(j), 316(e), 88 Stat. 678, 685.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Sections 1748a and 1748c of this title referred to in subsec. (k), were repealed by Pub. L. 89-117, title XI, § 1108 (aa), Aug. 10, 1965, 79 Stat. 507.

AMENDMENTS

1974—Subsec. (f). Pub. L. 93-383, § 304(j)(1), struck out "(1) not to exceed $5,000,000 or (2)" following "in an amount".

Subsec. (g). Pub. L. 93-383, § 304(j)(2), struck out "not to exceed $5,000,000 and" following "in an amount".

Subsec. (k). Pub. L. 93-383, § 316(e), substituted "June 30, 1977" for "October 1, 1974".

1973—Subsec. (k). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Subsec. (k). Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Subsec. (k). Pub. L. 91-609 substituted "October 1, 1972" for "January 1, 1971".

Pub. L. 91-525 substituted "January 1, 1971" for "December 1, 1970".

Pub. L. 91-473 substituted "December 1, 1970" for "November 1, 1970".

Pub. L. 91-432 substituted "November 1, 1970" for "October 1, 1970".

1969—Subsec. (k). Pub. L. 91-152 substituted "October 1, 1970" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

1968—Subsec. (e). Pub. L. 90-448 substituted "mortgagor approved by the Secretary" for "private corporation, association, cooperative society, or trust" in the first sentence, and "mortgagor" for "corporation, association, cooperative society, or trust" in the third and fourth sentences.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (c) to (f), and (h) of this section.

1965—Subsec. (e). Pub. L. 89-117, § 1108(w)(1), substituted "General Insurance Fund" for "Armed Services Housing Mortgage Insurance Fund".

Subsec. (j). Pub. L. 89-117, § 1108(w)(2), (3), struck out reference to subsecs. (m) and (p) of section 1713 of this title and, in the proviso, substituted "General Insurance Fund" for "Armed Services Housing Mortgage Insurance Fund" and struck out reference to the ap-

pearance of "Housing Insurance Fund" in sections 1710 and 1713 of this title and the appearance of "Fund" or "Mutual Mortgage Insurance Fund" in section 1713 of this title.

Subsec. (k). Pub. L. 89-117, § 202(c), substituted "October 1, 1969" for "October 1, 1965".

1964—Subsec. (f). Pub. L. 88-560 changed limits on mortgages for multifamily rental property or project, in clause (2) of the first sentence from "$2,500 per room (or $9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "$9,000 per family unit without a bedroom, $12,500 per family unit with one bedroom, $15,000 per family unit with two bedrooms, and $18,500 per family unit with three or more bedrooms"; and, in the second sentence, inserted ", by regulation," and substituted provisions authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such an increase "by not to exceed $1,000 per room", respectively.

1963—Subsec. (b)(1). Pub. L. 88-127, § 2(1), included essential personnel employed or assigned to duty at or in connection with any research or development installation of the National Aeronautics and Space Administration or of the Atomic Energy Commission.

Subsec. (d). Pub. L. 88-127, § 2(2), included persons described in clause (1)(B) of subsec. (b) of this section.

Subsec. (k). Pub. L. 88-127, § 2(3), substituted "October 1, 1965" for "October 1, 1963".

1962—Subsec. (k). Pub. L. 87-623 provided that no mortgages shall be insured under this section after October 1, 1963, except pursuant to a commitment before such date, and deleted "and the expiration date of the Commissioner's authority to insure" following "amount of all mortgages insured".

1961—Subsec. (b). Pub. L. 87-70, § 611(a)(1), eliminated provisions which required certification by the Secretary of Defense or his designee.

Subsec. (d). Pub. L. 87-70, § 611(a)(2), eliminated provisions which related to certification and advice of the Secretary of Defense or his designee.

Subsec. (*l*). Pub. L. 87-70, § 611(a)(3), repealed former subsec. (*l*) which required the Secretary of Defense to guarantee the Armed Services Housing Mortgage Insurance Fund from loss.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and its functions transferred pursuant to chapter 73 of Title 42, The Public Health and Welfare. See section 5814 of title 42.

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendment to subsec. (f) of this section by section 107(f) of Pub. L. 88-560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1715r, 1748g, 1748h-3 of this title; title 42 section 1594i.

§ 1748h-3. Payments in lieu of taxes; limitations; exemption from taxation

(a) The Secretary is authorized to make payments in lieu of taxes on any real property to which title has been or is hereafter acquired by him in fee under section 1748b of this title as effective prior to August 11, 1955, and on which taxes or payments in lieu of such taxes were payable or paid prior to acquisition by the Secretary. Such payments may be made in connection with tax years occurring prior to or subsequent to October 5, 1962. The amount of any such payments shall not exceed taxes on similar property and shall not include interest or penalties. If the Secretary has acquired or hereafter acquires title in fee to real property by foreclosure or by transfer from some other department or agency of the Government or otherwise during a tax year, he may make a payment in lieu of taxes prorated for that portion of the year remaining after his acquisition of title. This subsection shall not authorize any lien against property held by the Secretary, nor the payment of any tax, nor any payment in lieu of any tax, on any interest of the Secretary as lessee or mortgagee.

(b) Nothing in this subchapter shall be construed to exempt any real property which has been or is hereafter acquired and held by the Secretary under section 1748h-1 or 1748h-2 of this title from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title VIII, § 811, as added Oct. 5, 1962, Pub. L. 87-756, 76 Stat. 751, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) and (b) of this section.

§ 1748i. Omitted

CODIFICATION

Section, act Sept. 28, 1951, ch. 434, title V, § 505, 65 Stat. 365, related to the appropriation and expenditure of funds for the acquisition of land, installation of outside utilities, and site preparation for housing projects constructed under this subchapter.

SUBCHAPTER IX—HOUSING FOR EDUCATIONAL INSTITUTIONS

CODIFICATION

This subchapter was enacted as title IV of the Housing Act of 1950, act Apr. 20, 1950, ch. 94, title IV, §§ 401 to 404, 64 Stat. 77, 78, 80, and was not enacted as a subchapter of the National Housing Act which comprises this chapter.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1464 of this title; title 20 sections 1132a-6, 1132c-1.

§ 1749. Federal loans or grants

(a) Authority to make; conditions

To assist educational institutions in providing housing and other educational facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction or purchase of such facilities or may, as an alternative to all or part of the loan (in the case of any such institution), make annual grants to the institution to reduce the cost of its borrowing from other sources for such construction or purchase: *Provided*, That no such assistance shall be provided unless (1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this

subchapter, and (2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

(b) Prior contracts for housing or other educational facilities

Any educational institution which, prior to April 20, 1950, has contracted for housing or other educational facilities may, in connection therewith receive loans authorized under this subchapter, as the Secretary may determine: *Provided,* That no such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to April 20, 1950, or completed prior to the filing of an application under this subchapter.

(c) Amount of loan; maximum term; interest rate; annual grants; term; maximum amount

(1) A loan to an educational institution may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary; shall be secured in such manner and be repaid within such period, not exceeding fifty years, as may be determined by him; and with respect to loan contracts under which loan funds have not been fully disbursed prior to August 11, 1955, shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 3 per centum per annum, or (B) the total of one-quarter of 1 per centum per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury as provided in subsection (e) of this section.

(2) Annual grants to an educational institution with respect to any housing or other educational facilities shall be made over a fixed period not exceeding 40 years, and provision for such grants shall be embodied in a contract guaranteeing their payment over such period. Each such grant shall be in an amount equal to the difference between (A) the average annual debt service which would be required to be paid, during the life of the loan, on the amount borrowed from other sources for the construction or purchase of such facilities, and (B) the average annual debt service which the institution would have been required to pay, during the life of the loan, with respect to such amount if the applicable interest rate were the rate specified in paragraph (1): *Provided,* That the amount on which such grant is based shall be approved by the Secretary but in no event shall exceed the total development cost of the facilities.

(d) Issuance of notes and obligations by Secretary; amount; authorization of appropriations for payments

(1) To obtain funds for loans under subsection (a) of this section, the Secretary may issue and have outstanding at any one time notes and obligations for purchase by the Secretary of the Treasury in an amount not to exceed $1,675,000,000, which amount shall be increased by $300,000,000 on July 1, in each of the years 1961 through 1965, and 1967 and 1968: *Provided,* That the amount outstanding for other educational facilities, as defined herein, shall not exceed $175,000,000, which limit shall be increased by $30,000,000 on July 1, in each of the years 1961 through 1968: *Provided further,* That the amount outstanding for hospitals, referred to in clause (2) of section 1749c(b) of this title, shall not exceed $100,000,000, which limit shall be increased by $30,000,000 on July 1, in each of the years 1961 through 1968 and, notwithstanding the first proviso of this subsection, the amount of this annual increase which is not utilized for loans for hospitals may be utilized for loans for other educational facilities, as defined herein.

(2) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary, together with loan principal and interest payments made by educational institutions assisted with loans made hereunder, for payments on notes or other obligations issued by the Secretary under this section.

(e) Notes and obligations; form; denominations, maturities, terms and interest rate; purchase and sale by Secretary of the Treasury

Notes or other obligations issued by the Secretary under this subchapter shall be in such forms and denominations, have such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary, with the approval of the Secretary of the Treasury. Such notes or other obligations issued to obtain funds for loan contracts entered into after August 11, 1955, shall bear interest at a rate determined by the Secretary of the Treasury which shall be not more than the lower of (1) 2¾ per centum per annum, or (2) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the issuance by the Secretary and adjusted to the nearest one-eighth of 1 per centum. The Secretary of the Treasury is authorized and directed to purchase any notes and other obligations of the Secretary issued under this subchapter and for such purpose is authorized to use as a public-debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under such Act, as amended, are extended to include any purchases of such notes and other obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public-debt transactions of the United States.

(f) Authorization of appropriations for annual grants; aggregate amount of contracts; limitation on amount of annual grants

(1) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary for the payment of annual grants to educational institutions in accordance with this section.

(2) Contracts for annual grants under this section shall not be entered into in an aggregate amount greater than is authorized in appropriation Acts; and in any event the total amount of annual grants which may be paid to educational institutions in any year pursuant to contracts entered into under this section shall

not exceed $20,000,000, which amount shall be increased by $6,300,000 on July 1, 1970, and by $12,000,000 on July 1, 1971.

(g) Nonprofit student housing cooperative corporations; co-signature of notes; vesting of title to housing upon dissolution

Except as otherwise provided in the second paragraph of section 1749c(b) of this title, in the case of any loan which is made under this section to a nonprofit student housing cooperative corporation referred to in clause (5) of section 1749c(b) of this title, or which is obtained from other sources by such a corporation and is the subject of a contract for annual grants entered into under this section, the Secretary shall require that the note securing such loan be cosigned by the educational institution (referred to in clause (1) of such section) at which such corporation is located, and that, in the event of the dissolution of such corporation, title to the housing constructed with such loan will vest in such educational institution.

(Apr. 20, 1950, ch. 94, title IV, § 401, 64 Stat. 77; June 30, 1953, ch. 170, § 24(b), 67 Stat. 128; Aug. 2, 1954, ch. 649, title VIII, § 808(b), 68 Stat. 646; Aug. 11, 1955, ch. 783, title III, § 301, 69 Stat. 644; Aug. 7, 1956, ch. 1029, title VI, § 601, 70 Stat. 1113; July 12, 1957, Pub. L. 85-104, title VI, § 601(a), 71 Stat. 303; Sept. 23, 1959, Pub. L. 86-372, title VI, §§ 601, 603(b), 73 Stat. 681, 682; Sept. 14, 1960, Pub. L. 86-788, § 2(b), 74 Stat. 1028; June 30, 1961, Pub. L. 87-70, title IV, § 401, 75 Stat. 172; Aug. 10, 1965, Pub. L. 89-117, title VI, §§ 601, 602, 604(b), 79 Stat. 489; May 24, 1966, Pub. L. 89-429, § 3(b), 80 Stat. 166; Nov. 3, 1966, Pub. L. 89-754, title X, § 1014(b), 80 Stat. 1292; May 25, 1967, Pub. L. 90-19, § 8(a), 81 Stat. 22; Aug. 1, 1968, Pub. L. 90-448, title XVII, § 1705(b)-(e), (g)(1), 82 Stat. 604, 605; Dec. 24, 1969, Pub. L. 91-152, title II, § 219, 83 Stat. 390; July 24, 1970, Pub. L. 91-351, title VII, § 710, 84 Stat. 463; Dec. 31, 1970, Pub. L. 91-609, title II, § 205, 84 Stat. 1777.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (e), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

Such Act, referred to in subsec. (e), refers to the Second Liberty Bond Act, as amended.

AMENDMENTS

1970—Subsec. (f)(2). Pub. L. 91-609 authorized increase in annual amount of grants by $12,000,000 on July 1, 1971.

Pub. L. 91-351 substituted "$6,300,000" for "$4,200,000".

1969—Subsec. (f)(2). Pub. L. 91-152 substituted "$20,000,000, which amount shall be increased by $4,200,000 on July 1, 1970" for "$10,000,000, which amount shall be increased by $10,000,000 on July 1, 1969".

1968—Subsec. (a). Pub. L. 90-448, § 1705(b), included purchase of facilities, and empowered the Secretary to make annual grants to reduce the cost of borrowing from other sources.

Subsec. (c). Pub. L. 90-448, § 1705(c), designated existing provisions as par. (1), substituted therein "of (A)" and "or (B)" for "of (1)" and "or (2)", and added par. (2).

Subsec. (d). Pub. L. 90-448, § 1705(d), designated existing provisions as par. (1), and added par. (2) provisions of which were formerly contained in subsec. (f) of this section.

Subsec. (f). Pub. L. 90-448, § 1705(e), added subsec. (f). Provisions of former subsec. (f) are now contained in subsec. (d)(2) of this section.

Subsec. (g). Pub. L. 90-448, § 1705(g)(1), inserted provisions excepting loans obtained from other sources by a corporation and are the subject of a contract for annual grants.

1967—Pub. L. 90-19 substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a) to (g).

1966—Subsec. (d). Pub. L. 89-754 authorized the amount of the annual increase which is not utilized for loans for hospitals to be utilized for loans for other educational facilities.

Pub. L. 89-429 substituted "1965 and 1967 and 1968:" for "1968:" immediately preceding first proviso.

1965—Subsec. (c). Pub. L. 89-117, § 602(a), substituted "the lower of (1) 3 per centum per annum, or" for "the higher of (1) 2¾ per centum per annum, or".

Subsec. (d). Pub. L. 89-117, § 601, substituted "through 1968" for "through 1964" wherever appearing.

Subsec. (e). Pub. L. 89-117, § 602(b), substituted "the lower of (1) 2¾ per centum per annum, or" for "the higher of (1) 2½ per centum per annum, or".

Subsec. (g). Pub. L. 89-117, § 604(b), inserted "Except as otherwise provided in the second paragraph of section 1749c(b) of this title," before "in the case" at the beginning of the subsec.

1961—Subsec. (d). Pub. L. 87-70 authorized an increase in the amount of notes and obligations outstanding by $300,000,000 on July 1, in each of the years 1961 through 1964, and increased the maximum permitted to be outstanding for other educational facilities and for hospitals by $30,000,000 on July 1, in each of the years 1961 through 1964.

1960—Subsec. (d). Pub. L. 86-788 substituted "$1,675,000,000", "$175,000,000", and "$100,000,000" for "$1,175,000,000", "$125,000,000", and "$50,000,000" respectively.

1959—Subsec. (d). Pub. L. 86-372, § 601, substituted "$1,175,000,000" for "$925,000,000," "$125,000,000" for "$100,000,000," "$50,000,000" for "$25,000,000," and "under subsection (a) of this section" for "under this subchapter".

Subsec. (g). Pub. L. 86-372, § 603(b), added subsec. (g).

1957—Subsec. (d). Pub. L. 85-104 substituted "$925,000,000" for "$750,000,000" and added proviso that the amount for hospitals referred to in section 1749c(b)(2) of this title shall not exceed $25,000,000.

1956—Subsec. (d). Act Aug. 7, 1956, substituted "$750,000,000" for "$500,000,000".

1955—Act Aug. 11, 1955, amended section generally to authorize loans for "other educational facilities", to increase the maximum term of loans from 40 years to 50 years, to lower the interest rate, to increase the total amount of obligations which can be issued to the Treasury from $300,000,000 to $500,000,000 and to reduce the rate of interest on borrowings from the Treasury.

1954—Subsec. (a). Act Aug. 2, 1954 in third sentence, substituted "is approved by the Administrator" for "made" immediately preceding the proviso.

1953—Subsec. (a). Act June 30, 1953, in third sentence, established a minimum base interest rate which would 1. reflect market yields on Government bonds, instead of interest rates specified in the bonds, when issued plus one-fourth of 1 per cent, 2. reflect the yield on obligations of the United States having 15 years or more to run to maturity, instead of the rate on a bond which could have a maturity as low as 10 years, 3. reflect the average yield during a full 1-month period on all outstanding obligations of the United States having 15 years or more to run to maturity, instead of the rate on a single recent issue of bonds, 4. retain the base rate, once it was specified by the Secretary of the Treasury, instead of varying from month to month as new bonds are issued, and 5. be adjusted to the nearest one-eighth of 1 percent.

EFFECTIVE DATE OF 1965 AMENDMENT

Section 602 of Pub. L. 89-117 provided that the amendment of subsec. (c) of this section is effective with respect to loan contracts entered into after August 10, 1965, and that the amendment of subsec. (e) of this section is effective with respect to notes or other obligations financing loan contracts entered into after August 10, 1965.

CEILING ON TOTAL PAYMENTS IN ANY FISCAL YEAR

Pub. L. 90-608, ch. IV, § 401, Oct. 21, 1968, 82 Stat. 1193, provided that: "The total payments that may be required in any fiscal year by all contracts for annual grants with educational institutions entered into pursuant to section 401 of the Housing Act of 1950, as amended (82 Stat. 604) [this section], shall not exceed $3,000,000."

Pub. L. 91-47, title II, § 201, July 22, 1969, 83 Stat. 54, increased by $2,500,000 the limitation on total payments that may be required in any fiscal year by all contracts for annual grants with educational institutions entered into pursuant to section 401 of the Housing Act of 1950, as amended (82 Stat. 604) [this section].

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749c of this title.

§ 1749a. Powers and duties of Secretary

(a) Preparation and submission of budget; maintenance of accounts

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, the Secretary, notwithstanding the provisions of any other law, shall—

(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act, as amended [31 U.S.C. 841 et seq.]; and

(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950 [31 U.S.C. 65 et seq.]: *Provided.* That such financial transactions of the Administrator as the making of loans and vouchers approved by the Administrator in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

(b) Disposition of funds; administrative expenses

Funds made available to the Secretary pursuant to the provisions of this subchapter shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of his functions under this subchapter, and all funds available for carrying out the functions of the Secretary under this subchapter (including appropriations therefor, which are authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

(c) General functions of Secretary

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, the Secretary, notwithstanding the provisions of any other law, may—

(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this subchapter;

(2) consult with and secure the advice and recommendations of the Office of Education in the Department of Health, Education, and Welfare;

(3) sue and be sued;

(4) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which he has made a loan pursuant to this subchapter. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease and otherwise deal with, such property: *Provided,* That any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

(5) enter into agreements to pay annual sums in lieu of taxes to any State or local taxing authority with respect to any real property so acquired or owned;

(6) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as he may fix;

(7) obtain insurance against loss in connection with property and other assets held;

(8) subject to the specific limitations in this subchapter, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which he is a party or which has been transferred to him pursuant to this subchapter; and

(9) include in any contract or instrument made pursuant to this subchapter such other covenants, conditions, or provisions as he may deem necessary to assure that the purposes of this subchapter will be achieved.

(d) Exemption from contract advertisement provisions

Section 5 of title 41 shall not apply to any contract for services or supplies on account of any property acquired pursuant to this subchapter if the amount of such contract does not exceed $1,000.

(e) Applicability of other laws

The provisions of section 870 of title 31, which are applicable to corporations or agencies subject to the Government Corporation Control Act, shall also be applicable to the activities of the Secretary under this subchapter.

(f) Prevailing wage scales

The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors or subcontractors on any project assisted under this subchapter, the construction or rehabilitation of which was commenced after September 23,

1959, (1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended [40 U.S.C. 276a et seq.], and (2) shall be employed not more than forty hours in any one week unless the employee receives wages for his employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which he is employed; but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

(Apr. 20, 1950, ch. 94, title IV, § 402, 64 Stat. 78; 1953 Reorg. Plan No. 1, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 23, 1959, Pub. L. 86-372, title VI, § 602, 73 Stat. 681; May 25, 1967, Pub. L. 90-19, § 8(a), (b), 81 Stat. 22; Jan. 2, 1975, Pub. L. 93-604, title VII, § 705(b), 88 Stat. 1964.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in subsecs. (a)(1) and (e), is act Dec. 6, 1945, ch. 557, 59 Stat. 597, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 841 of Title 31 and Tables volume.

The Accounting and Auditing Act of 1950, referred to in subsec. (a)(2), is Part II of title I of act Sept. 12, 1950, ch. 946, 64 Stat. 834, and is classified to chapter 1A (§ 65 et seq.) of Title 31.

"Administrator", referred to in subsec. (a)(2) as amended by Pub. L. 93-604, title VII, § 705(b), probably should be "Secretary" to accord with the prior amendment by Pub. L. 90-19, § 8(a), which substituted "Secretary" for "Administrator" wherever appearing in title IV of the Housing Act of 1950.

The Act of March 3, 1931 (Davis-Bacon Act), as amended, referred to in subsec. (f), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, which is classified to sections 276a to 276a-5 of title 40, Public Buildings, Property, and Works.

AMENDMENTS

1975—Subsec. (a)(2). Pub. L. 93-604 substituted provisions for the maintenance of a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of the Accounting and Auditing Act of 1950, for provisions for the maintenance of an integral set of accounts which shall be audited annually by the General Accounting Office in accordance with the principles and procedures applicable to commercial transactions as provided by the Government Corporation Control Act, and that no other audit shall be required and further substituted reference to Administrator for reference to Secretary.

1967—Pub. L. 90-19, § 8(a), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a), (a)(2), (b), (c), (c)(4), (e), and (f) of this section.

Subsec. (c)(2). Pub. L. 90-19, § 8(b), substituted "Department of Health, Education, and Welfare" for "Federal Security Agency".

1959—Subsecs. (e), (f). Pub. L. 86-372 added subsecs. (e) and (f).

TRANSFER OF FUNCTIONS

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by Reorg. Plan No. 1 of 1953, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of Reorg. Plan No. 8 of 1953.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701q, 1749bbb-17; title 42 sections 1452b, 1494, 3105, 3912; title 49 section 1608.

§ 1749b. Apportionment of funds

Not more than 12½ per centum of the amount of the funds provided for in this subchapter in the form of loans, and not more than 12½ per centum of the funds provided for in this subchapter for grants, shall be made available to educational institutions within any one State.

(Apr. 20, 1950, ch. 94, title IV, § 403, 64 Stat. 80; June 30, 1961, Pub. L. 87-70, title IV, § 402, 75 Stat. 173; Aug. 1, 1968, Pub. L. 90-448, title XVII, § 1705(f), 82 Stat. 604.)

AMENDMENTS

1968—Pub. L. 90-448 limited availability of funds to not more than 12½ per centum of the funds provided for grants.

1961—Pub. L. 87-70 substituted "12½ per centum" for "10 per centum".

§ 1749c. Definitions

For the purposes of this subchapter, the following terms shall have the meanings, respectively, ascribed to them below:

(a) "Housing" means (1) new or existing structures suitable for dwelling use, including single-room dormitories and apartments, and (2) dwelling facilities provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

(b) "Educational institution" means (1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this subchapter, at least a two-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual), or (B) any public educational institution which (i) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association, (ii) offers technical or vocational instruction, and (iii) provides residential facilities for some or all of the students receiving such instruction, (2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual, (3)

any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual) (A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in clause (1) of this subsection without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization, and (B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 1749 of this title, or is the subject of a contract for annual grants entered into under section 1749 of this title, will pass to such institution (or to any one or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose, (4) any agency, public authority, or other instrumentality of any State established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in clause (1) of this subsection, but nothing herein contained shall require an institution included in clause (1) of this subsection to obtain loans or grants through any instrumentality included in this clause of this subsection, and (5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in clause (1) of this subsection.

In the case of any loan made under section 1749 of this title to a corporation described in clause (3) of this subsection which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in clause (5) of this subsection, and in the case of any loan which is obtained from other sources by such a corporation and is the subject of a contract for annual grants entered into under section 1749 of this title, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions): *Provided*, That where the law of any State in effect on September 2, 1964 prevents the institution or institutions, for whose students or students and faculty the housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

(c) "Development cost" means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing or other educational facilities; except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

(d) "Faculties" means members of the faculty and their families.

(e) "State" shall include the several States, the District of Columbia, and the Territories and possessions of the United States.

(f) "Secretary" means the Secretary of Housing and Urban Development.

(g) "Construction" means erection of new structures, or rehabilitation, alteration, conversion, or improvement of existing structures.

(h) "Other educational facilities" means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, and for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

(Apr. 20, 1950, ch. 94, title IV, § 404, 64 Stat. 80; Aug. 11, 1955, ch. 783, title III, §§ 302, 303, 69 Stat. 645; July 12, 1957, Pub. L. 85-104, title VI, § 601(b), 71 Stat. 304; Sept. 23, 1959, Pub. L. 86-372, title VI, § 603(a), 73 Stat. 682; June 30, 1961, Pub. L. 87-70, title IV, § 403, 75 Stat. 173; Sept. 2, 1964, Pub. L. 88-560, title X, § 1002, 78 Stat. 806; Aug. 10, 1965, Pub. L. 89-117, title VI, §§ 603, 604(a), 79 Stat. 489; Nov. 3, 1966, Pub. L. 89-754, title X, § 1014(a), 80 Stat. 1292; May 25, 1967, Pub. L. 90-19, § 8(a), (c), 81 Stat. 22; Aug. 1, 1968, Pub. L. 90-448, title XVII, § 1705(g)(2)-(7), 82 Stat. 605.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-448, § 1705(g)(2), included existing structures suitable for dwelling use.

Subsec. (b). Pub. L. 90-448, § 1705(g)(3) to (5), substituted "of any loan which is made under section 1749 of this title, or is the subject of a contract for annual grants entered into under section 1749 of this title," for "of any loan secured under this subchapter" in cl. (3)(B), and "to obtain loans or grants" for "to obtain loans" in cl. (4), and inserted "and in the case of any loan which is obtained from other sources by such a corporation and is the subject of a contract for annual grants entered into under section 1749 of this title" following "clause (5) of this subsection," in the second paragraph.

Subsec. (c). Pub. L. 90-448, § 1705(g)(6), defined the term in the case of the purchase of facilities to mean the cost as approved by the Secretary.

Subsec. (h). Pub. L. 90-448, § 1705(g)(7), included existing structures suitable for cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, and for other essential service facilities.

1967—Subsec. (b). Pub. L. 90-19, § 8(a), substituted "Secretary" for "Administrator" wherever appearing in cl. (3)(B) and the last paragraph.

Subsec. (f). Pub. L. 90-19, § 8(c), substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

1966—Subsec. (b)(4). Pub. L. 89-754 struck out "public" preceding "educational institution".

1965—Subsec. (b). Pub. L. 89-117 expanded the definition of "educational institution" to include educational institutions offering satisfactory assurances that it will offer within a reasonable time after completion of a facility for which assistance is requested at least a two-year program acceptable for full credit toward a baccalaureate degree and accredited public educational institutions offering technical or vocational instruction, if administered by an accredited college or university and providing housing for all or part of its students, and, in the second paragraph, inserted "or to a student housing cooperative corporation described in clause (5) of this subsection," after "would provide housing,".

1964—Subsec. (b). Pub. L. 88-560 added the proviso to the second par.

1961—Subsec. (b). Pub. L. 87-70 substituted "established for the sole purpose of providing housing or

other educational facilities for students or students and faculty of one or more institutions included in clause (1) of this subsection without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization, and (B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan secured under this subchapter will pass to such institution (or to any one or more of such institutions) unless it is shown to the satisfaction of the Administrator that such property or the proceeds from its sale will be used for some other nonprofit educational purpose" for "established by any institution included in clause (1) of this subsection for the sole purpose of providing housing or other educational facilities for students or students and faculty of such institution without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization, and (B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan secured under this subchapter will pass to such institution" in cl. (3), and inserted provisions requiring cosigning by the institution (or by one or more of such institutions) in the case of any loan made under section 1749 of this title to a corporation described in cl. (3) of this subsection which was not established by the institution or institutions for whose students or students and faculty it would provide housing.

1959—Subsec. (b). Pub. L. 86-372 included nonprofit student housing cooperative corporations established for the purpose of providing housing for students or students and faculty of any institution included in clause (1) of this subsection.

1957—Subsec. (b). Pub. L. 85-104 included nonprofit hospitals which operate schools of nursing or are approved for internship and State agencies established to finance housing and other related facilities for public educational institutions.

1955—Subsec. (b). Act Aug. 11, 1955, § 303(1), included educational institutions offering at least a two-year program acceptable for full credit toward a baccalaureate degree, and nonprofit corporations established for the sole purpose of providing housing or other educational facilities.

Subsec. (c). Act Aug. 11, 1955, § 302, included other educational facilities.

Subsec. (h). Act Aug. 11, 1955, § 303(2), added subsec. (h).

Section Referred to in Other Sections

This section is referred to in section 1749 of this title.

§ 1749d. Cost of inspections and of providing representatives

On and after December 19, 1963, necessary expenses of inspections and of providing representatives at the site of projects being planned or undertaken by local public agencies pursuant to title I of the Housing Act of 1949, as amended [42 U.S.C. 1450 et seq.], projects financed through loans to educational institutions authorized by this subchapter, projects and facilities financed by loans to public agencies pursuant to title II of the Housing Amendments of 1955, as amended [42 U.S.C. 1491 et seq.], urban planning financed through grants to State and local government agencies pursuant to title VII of the Housing Act of 1954, as amended [40 U.S.C. 460 et seq.], and reserves of planned public works financed through advances to municipalities and other public agencies pursuant to title VII of the Housing Act of 1954, as amended [40 U.S.C. 460 et seq.], shall be compensated by such agencies or institutions by the payment of fixed fees which in the aggregate will cover the costs of rendering such services, and expenses for such purpose shall be considered nonadministrative; and for the purpose of providing such inspections, the Secretary of Housing and Urban Development may utilize any agency and such agency may accept reimbursement or payment for such services from such institutions, or the Secretary, and shall credit such amounts to the appropriations or funds against which such charges have been made.

(Pub. L. 88-215, title I, § 101, Dec. 19, 1963, 77 Stat. 437.)

References in Text

Title I of the Housing Act of 1949, as amended, referred to in text, is title I of act July 15, 1949, ch. 338, § 100, as added Aug. 2, 1954, ch. 649, title III, § 302, 68 Stat. 622, and is classified to subchapter II (§ 1450 et seq.) of chapter 8A of Title 42, The Public Health and Welfare.

Title II of the Housing Amendments of 1955, as amended, referred to in the text, is title II of act Aug. 11, 1955, ch. 783, § 201, 69 Stat. 642, and is classified to chapter 8B (§ 1491 et seq.) of Title 42.

Title VII of the Housing Act of 1954, as amended, referred to in the text, is title VII of act Aug. 2, 1954, ch. 649, § 701, 68 Stat. 640, and is classified to subchapter II (§ 460 et seq.) of chapter 9 of Title 40, Public Buildings, Property, and Works.

Codification

Section was enacted as a part of the Independent Offices Appropriation Act, 1964, Pub. L. 88-215, and not as a part of title IV of the Housing Act of 1950 which comprises this subchapter.

Transfer of Functions

"Secretary" was substituted for "Administrator" pursuant to Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, which transferred the functions, powers, and duties of the Housing and Home Finance Agency and its Administrator to the Secretary of Housing and Urban Development. Pub. L. 89-174, § 5, Sept. 9, 1965, 79 Stat. 669, is classified to section 3534 of Title 42, The Public Health and Welfare.

Similar Provisions

Similar provisions were contained in the following prior appropriation acts:

Oct. 3, 1962, Pub. L. 87-741, title I, § 101, 76 Stat. 728.

Aug. 17, 1961, Pub. L. 87-141, title I, § 101, 75 Stat. 353.

July 12, 1960, Pub. L. 86-626, title I, § 101, 74 Stat. 434.

Sept. 14, 1959, Pub. L. 86-255, title I, § 101, 73 Stat. 508.

Aug. 28, 1958, Pub. L. 85-844, title I, § 101, 72 Stat. 1070.

June 29, 1957, Pub. L. 85-69, title I, § 101, 71 Stat. 233.

June 27, 1956, ch. 452, title I, § 101, 70 Stat. 345.

June 30, 1955, ch. 244, title I, § 101, 69 Stat. 206.

June 24, 1954, ch. 359, title I, § 101, 68 Stat. 283.

July 31, 1953, ch. 302, title I, § 101, 67 Stat. 305.

July 5, 1952, ch. 578, title I, § 101, 66 Stat. 402.

Aug. 31, 1951, ch. 376, title I, § 101, 65 Stat. 276.

Sept. 6, 1950, ch. 896, ch. VIII, title I, § 101, 64 Stat. 709.

Limitation on Expense

Section 101 of Pub. L. 89-555, title I, Sept. 6, 1966, 80 Stat. 684, limited nonadministrative expenses to $5,535,000 for fiscal year 1966. Similar provisions for prior fiscal years were contained in acts Aug. 31, 1951, ch. 376, title I, § 101, 65 Stat. 276; July 5, 1952, ch. 578, title I, § 101, 66 Stat. 402; July 31, 1953, ch. 302, title I, § 101, 67 Stat. 305; June 24, 1954, ch. 359, title I, § 101, 68 Stat. 283; June 30, 1955, ch. 244, title I, § 101, 69 Stat. 206; May 19, 1956, ch. 313, ch. V, § 501, 70 Stat.

166; June 27, 1956, ch. 452, title I, § 101, 70 Stat. 346; June 29, 1957, Pub. L. 85-69, title I, § 101, 71 Stat. 233; Aug. 28, 1958, Pub. L. 85-844, title I, § 101, 72 Stat. 1070; Sept. 14, 1959, Pub. L. 86-255, title I, § 101, 73 Stat. 508; July 12, 1960, Pub. L. 86-626, title I, § 101, 74 Stat. 435; Aug. 17, 1961, Pub. L. 87-141, title I, § 101, 75 Stat. 353; Oct. 3, 1962, Pub. L. 87-741, title I, § 101, 76 Stat. 729; Dec. 19, 1963, Pub. L. 88-215, title I, § 101, 77 Stat. 437; Aug. 30, 1964, Pub. L. 88-507, title I, § 101, 78 Stat. 655; Aug. 16, 1965, Pub. L. 89-125, title I, § 101, 79 Stat. 531.

SUBCHAPTER IX-A—MORTGAGE INSURANCE FOR LAND DEVELOPMENT AND NEW COMMUNITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1464, 1702, 1715c, 1715h, 1717, 1731a, 1735f of this title; title 38 section 1804.

§ 1749aa. Definitions

As used in this subchapter—

(a) the term "mortgage" means a lien or liens on real estate in fee simple, or on a leasehold (1) under a lease for not less than ninety-nine years which is renewable, or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed;

(b) the term "first mortgage" includes such classes of first liens as are commonly given to secure advances (including but not limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and may be in the form of trust mortgages or mortgage indentures or deeds of trusts securing notes, bonds, or other credit instruments;

(c) the terms "mortgagee", "mortgagor", and "State" have the same meaning as in section 1713 of this title;

(d) the term "improvements" means waterlines and water supply installations, sewerlines and sewage disposal installations, steam, gas, and electric lines and installations, roads, streets, curbs, gutters, sidewalks, storm drainage facilities, and other installations or work, whether on or off the site, which the Secretary deems necessary or desirable to prepare land primarily for residential and related uses or to provide facilities for public or common use. Related uses may include industrial uses, with sites for such uses to be in proper proportion to the size and scope of the development. The term improvements shall not include any building unless it is (1) a building which is needed in connection with a water supply or sewage disposal installation, or a steam, gas, or electric line or installation, or (2) a building, other than a school, which is to be owned and maintained jointly by the property owners; and

(e) the term "land development" means the process of making, installing, or constructing improvements.

(June 27, 1934, ch. 847, title X, § 1001, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 461, and amended Nov. 3, 1966, Pub. L. 89-754, title X, §§ 1019, 1020(f), 80 Stat. 1295, 1296; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Subsec. (d). Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1966—Subsec. (c). Pub. L. 89-754, § 1020(f), substituted "mortgagee" for "mortgage".

Subsec. (d). Pub. L. 89-754, § 1019, included in definition of "improvements", steam, gas, and electric lines and installations, defined "related uses" to include industrial uses, with sites for such uses to be in proper proportion to the size and scope of the development, substituted "The term improvements" for "but such term", and included in clause (1) steam, gas, or electric line or installation.

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, [see Short Title note under section 1701 of this title], 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of Title 42, The Public Health and Welfare.

§ 1749bb. Insurance of mortgages

(a) Authorization; termination date

The Secretary is authorized (1) to insure, upon such terms and conditions as he may prescribe, any first mortgage (including advances on such mortgage) in accordance with the provisions of this subchapter, and (2) to make a commitment for the insurance of such mortgage prior to the date of execution of such mortgage or prior to the date of disbursement of the mortgage proceeds. No mortgage shall be insured under this subchapter after June 30, 1977, except pursuant to a commitment to insure issued before such date.

(b) Approval of mortgagor and mortgagee; coverage of land and improvements

The mortgage shall—

(1) be executed by a mortgagor, other than a public body, approved by the Secretary.

(2) be made to and held by a mortgagee approved by the Secretary; and

(3) cover the land to be developed and the improvements to be made with the assistance of the mortgage insurance under this subchapter, except facilities intended for public use and in public ownership.

(c) Maximum amounts of principal obligation

The principal obligation of the mortgage shall not exceed the sum or 80 per centum of the Secretary's estimate of the value of the land before development and 90 per centum of his estimate of the cost of such development.

(d) Maturity; interest; terms and provisions

The mortgage shall—

(1) contain repayment provisions satisfactory to the Secretary and have a maturity not to exceed ten years, or such longer maturity as the Secretary deems reasonable (A) in the case of a privately owned system for water or sewage, and (B), in the case of a new community approved under section 1749cc-1 of this title: *Provided,* That the Secretary may agree to a reasonable extension of the term of a

mortgage, the maturity of which is limited by this paragraph to not more than ten years, if he determines that unusual or unforeseen circumstances make such extension necessary to avoid undue hardship to the mortgagor:

(2) bear interest at a rate satisfactory to the Secretary, and such interest shall be exclusive of premium charges for mortgage insurance and such service charges and fees as may be approved by the Secretary; and

(3) contain such terms and provisions with respect to protection of the security, payment of taxes, delinquency charges, prepayment, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

(e) Requirements upon property or project to be financed

A property or project to be financed by a mortgage insured under this subchapter shall—

(1) represent a good mortgage insurance risk; and

(2) involve improvements that comply with all applicable State and local governmental requirements and with minimum standards approved by the Secretary.

(June 27, 1934, ch. 847, title X, § 1002, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 462, and amended Nov. 3, 1966, Pub. L. 89-754, title IV, § 402, 80 Stat. 1272; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90-448, title III, § 310, 82 Stat. 509; Sept. 30, 1969, Pub. L. 91-78, § 2(f), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title I, § 101(h), 83 Stat. 379; Oct. 2, 1970, Pub. L. 91-432, § 1(f), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91-473, § 1(f), 84 Stat. 1065; Dec. 1, 1970, Pub. L. 91-525, § 1(f), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91-609, title I, § 101(h), 84 Stat. 1770; Oct. 18, 1972, Pub. L. 92-503, § 1(h), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93-85, § 1(h), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93-117, § 1(h), 87 Stat. 422; Aug. 22, 1974, Pub. L. 93-383, title III, §§ 304(k), 314, 316(f), 88 Stat. 678, 684, 685.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383, § 316(f), substituted "June 30, 1977" for "October 1, 1974".

Subsec. (c). Pub. L. 93-383, §§ 304(k), 314, struck out "(1) not exceed 75 per centum of the Secretary's estimate of the value of the property upon completion of the land development, and (2)" following "shall", substituted "80" for "50", and eliminated limitation on amounts of outstanding principal obligations of mortgages involving a single land development undertaking.

1973—Subsec. (a). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Subsec. (a). Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Subsec. (a). Pub. L. 91-609 substituted "October 1, 1972" for "January 1, 1971".

Pub. L. 91-525 substituted "January 1, 1971" for "December 1, 1970".

Pub. L. 91-473 substituted "December 1, 1970" for "November 1, 1970".

Pub. L. 91-432 substituted "November 1, 1970" for "October 1, 1970".

1969—Subsec. (a). Pub. L. 91-152 substituted "October 1, 1970" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

1968—Subsec. (d)(1). Pub. L. 90-448 increased the maturity period of the mortgage from not more than seven years to not more than ten years, and inserted proviso permitting the Secretary to agree to a reasonable extension of the term of a mortgage, the maturity of which is limited to not more than ten years, if he determines that unusual or unforeseen circumstances make such extension necessary to avoid undue hardship to the mortgagor.

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b)(1), (2), (c), (d)(2), (3), and (e)(2) of this section.

Subsec. (c). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing.

1966—Subsec. (c). Pub. L. 89-754, § 402(a), increased maximum amount of principal obligation of mortgage involving single land development undertaking from $10,000,000 to $25,000,000.

Subsec. (d)(1). Pub. L. 89-754, § 402(b), reenacted provisions in par. (1), designated existing provisions as clause (A) and added clause (B).

§ 1749cc. Land development; schedule; plan

(a) The land development covered by a mortgage insured under this subchapter shall be undertaken pursuant to a schedule, conforming to such requirements and procedures as the Secretary may prescribe, that will assure the use of the land for the purposes for which it is to be developed within the shortest reasonable period consistent with the objectives of sound and economic community growth or urban development.

(b) The land development shall be undertaken in accordance with an overall development plan, appropriate to the scope and character of the undertaking, which—

(1) has received all governmental approvals required by State or local law or by the Secretary;

(2) is acceptable to the Secretary as providing reasonable assurance that the land development will contribute to good living conditions in the area being developed, which area (A) will have a sound economic base and a long economic life, (B) will be characterized by sound land-use patterns, and (C) will include or be served by such shopping, school, recreational, transportation, and other facilities as the Secretary deems adequate or necessary; and

(3) is consistent with a comprehensive plan which covers, or with comprehensive planning being carried on for, the area in which the land is situated, and which meets criteria established by the Secretary for such plans or planning; except that, in the case of land development covered by a mortgage with respect to which an insurance commitment is issued under this subchapter before the expiration of one year after December 31, 1970, the requirement of this paragraph shall be applicable only if there is actually in existence on the date the commitment is issued a comprehensive plan which covers, or comprehensive planning being carried on for, the area in which the land is situated.

(June 27, 1934, ch. 847, title X, § 1003, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 463, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), (u), 81 Stat. 17, 19; Dec. 31, 1970, Pub. L. 91-609, title I, § 119, 84 Stat. 1775.)

AMENDMENTS

1970—Subsec. (b)(3). Pub. L. 91-609 provided that in case of land development covered by a mortgage with respect to which an insurance commitment is issued under this subchapter before the expiration of 1 year after Dec. 31, 1970, the requirement of this paragraph shall be applicable only if there is actually in existence on the date the commitment is issued a comprehensive plan which covers, or comprehensive planning being carried on for, the area in which the land is situated.

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) and (b)(1), (2) of this section.

Subsec. (b)(3). Pub. L. 90-19, § 1(u), substituted "Secretary" for "Housing and Home Finance Administrator".

§ 1749cc-1. New communities

(a) Approval by Secretary

New communities consisting of developments, satisfying all other requirements under this subchapter, may be approved under this section by the Secretary for mortgage insurance if they meet the requirements of subsection (b) of this section.

(b) Requirements for approval

A development shall be eligible for approval as a new community if the Secretary determines it will, in view of its size and scope, make a substantial contribution to the sound and economic growth of the area within which it is located in the form of—

(1) substantial economies, made possible through large-scale development, in the provision of improved residential sites;

(2) adequate housing to be provided for those who would be employed in the community or the surrounding area;

(3) maximum accessibility from the new residential sites to industrial or other employment centers and commercial, recreational, and cultural facilities in or near the community; and

(4) maximum accessibility to any major central city in the area.

(c) Approval by local governing bodies and Governor

No development shall be approved as a new community by the Secretary under this section unless the construction of such development has been approved by the local governing body or bodies of the locality or localities in which it will be located and by the Governor of the State in which such locality or localities are situated: *Provided,* That if such locality or localities have been delegated general powers of local self-government by State law or State constitution, as determined by the Secretary, the approval of the Governor shall not be required.

(d) Limitation on amount of insurance

The aggregate amount of mortgages insured under this subchapter with respect to new communities approved under this section and outstanding at any one time shall not exceed $250,000,000.

(June 27, 1934, ch. 847, title X, § 1004, as added Nov. 3, 1966, Pub. L. 89-754, title IV, § 401(a), 80 Stat. 1271.)

MORTGAGE INSURANCE FOR NEW COMMUNITIES; TERMINATION DATE

Section 401(b) of Pub. L. 89-754 provided that: "No mortgage shall be insured under title X of the National Housing Act [this subchapter] with respect to a new community approved under section 1004 of such Act [this section] (as added by subsection (a) of this section) after October 1, 1972, except pursuant to a commitment to insure entered into before that date."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1717, 1749bb of this title; title 42 section 1492.

§ 1749dd. Requirements to encourage homebuilding industry and proper balance of housing for moderate and low income families

The Secretary shall adopt such requirements as he deems necessary in land development covered by mortgages insured under this subchapter to encourage the maintenance of a diversified local homebuilding industry, broad participation by builders, particularly small builders, and the inclusion of a proper balance of housing for families of moderate or low income.

(June 27, 1934, ch. 847, title X, § 1005, formerly § 1004, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 463, renumbered and amended Nov. 3, 1966, Pub. L. 89-754, title IV, §§ 401(a), 403, 80 Stat. 1271, 1272; May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1966—Pub. L. 89-754, § 403, inserted "particularly small builders," following "broad participation by builders".

§ 1749ee. Water and sewerage facilities

After development of the land it shall be served by public systems for water and sewerage which are consistent with other existing or prospective systems within the area, except that—

(a) in the case of systems for water, the land may be served by privately or cooperatively owned systems which are consistent with other existing or prospective systems within the area; are approved as adequate by the Secretary; and are regulated or supervised by the State or political subdivision or an agency thereof, or (in the absence of such State or local regulation or supervision) are otherwise regulated in a manner acceptable to the Secretary, with respect to user rates and charges, capital structure, methods of operation, rate of return, and conditions and terms of any sale or transfer; and

(b) in the case of systems for sewerage, the land may be served by—

(1) existing privately or cooperatively owned systems (including reasonable extensions thereto) which are approved as adequate by the Secretary, and which are regulated or supervised by the State or political subdivision or an agency thereof, or (in the absence of such State or local regulation or supervision) are otherwise regulated in a manner acceptable to the Secretary; or

(2) if it is necessary to develop a new system and the Secretary determines that

public ownership of such a system is not feasible, an adequate privately or cooperatively owned new system (A) which he finds consistent with other existing or prospective systems within the area, (B) which during the period of such ownership will be regulated or supervised by the State or political subdivision or an agency thereof, or (in the absence of such State or local regulation or supervision) will be otherwise regulated in a manner acceptable to the Secretary, with respect to user rates and charges, capital structure, methods of operation, and rate of return, and (C) regarding which he receives assurances, satisfactory to him, with respect to eventual public ownership and operation of the system and with respect to the conditions and terms of any sale or transfer.

(June 27, 1934, ch. 847, title X, § 1006, formerly § 1005, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 463, renumbered and amended Nov. 3, 1966, Pub. L. 89-754, title IV, §§ 401(a), 404, 80 Stat. 1271, 1272.)

AMENDMENTS

1966—Pub. L. 89-754, § 404, reenacted existing provisions as the introductory text; substituted the Secretary for the Commissioner and provisions for regulation or supervision by the State or its agency or in absence of such regulation for regulation in a manner acceptable to the Secretary for former provision for regulation in a manner acceptable to the Commissioner; incorporated existing provisions respecting water systems in provisions designated as subsec. (a); and incorporated existing provisions respecting sewerage systems in provisions designated as subsec. (b), providing in par. (1) for existing systems and extensions thereof and in par. (2) for new systems with assurances of eventual public ownership and operation where in development public ownership is not feasible.

§ 1749ff. Release or subordination of mortgaged property

The Secretary may, on such terms and conditions as he may prescribe, consent to the release or subordination of a part or parts of the mortgaged property from the lien of the mortgage.

(June 27, 1934, ch. 847, title X, § 1007, formerly § 1006, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 464, renumbered Nov. 2, 1966, Pub. L. 89-754, title IV, § 401(a), 80 Stat. 1271, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

§ 1749gg. Premiums; fees; report to Congress

The Secretary shall collect reasonable premiums for the insurance of any mortgage under this subchapter and make such charges as he determines are reasonable for the analysis of the land development plan and the appraisal and inspection of the property and improvements. On or before January 1, 1967, the Secretary shall make a report to the Congress concerning the premium rates and other charges under this subchapter that he estimates will be adequate to provide income sufficient for a self-supporting program.

(June 27, 1934, ch. 847, title X, § 1008, formerly § 1007, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 464, renumbered Nov. 3, 1966, Pub. L. 89-754, title IV, § 401(a), 80 Stat. 1271, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

§ 1749hh. Applicability of other provisions of law

The provisions of subsections (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall be applicable to mortgages insured under this subchapter, except that as applied to such mortgages (1) any reference therein to section 1713 of this title shall be deemed to refer to this subchapter, and (2) any reference to an annual premium shall be deemed to refer to such premiums as the Secretary may designate under this subchapter.

(June 27, 1934, ch. 847, title X, § 1009, formerly § 1008, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 464, renumbered Nov. 3, 1966, Pub. L. 89-754, title IV, § 401(a), 80 Stat. 1271, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

§ 1749ii. Contract of insurance as evidence of eligibility; incontestability of validity

Any contract of insurance executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or material misrepresentation on the part of such approved mortgagee.

(June 27, 1934, ch. 847, title X, § 1010, formerly § 1009, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 464, renumbered Nov. 3, 1966, Pub. L. 89-754, title IV, § 401(a), 80 Stat. 1271, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

§ 1749jj. Rules and regulations

The Secretary is authorized to make such rules and regulations and to require such agreements as he may deem necessary or desirable to carry out the provisions of this subchapter.

(June 27, 1934, ch. 847, title X, § 1011, formerly § 1010, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 464, renumbered Nov. 3, 1966, Pub. L. 89-754, title IV, § 401(a), 80 Stat. 1271, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

§ 1749kk. Taxation of real property acquired by Secretary

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Secretary under this subchapter from taxation by any State or political subdivision thereof to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title X, § 1012, formerly § 1011, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 464, renumbered Nov. 3, 1966, Pub. L. 89-754, title IV, § 401(a), 80 Stat. 1271, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

§ 1749*ll*. Cost certification

(a) Requirements to assure that amount of mortgage loan outstanding is not excessive

The Secretary shall adopt such requirements as he determines necessary to assure, at reasonable intervals of time during land development and upon completion of such development, that the amount of the mortgage loan outstanding at each such interval does not exceed with respect to that portion of the land remaining under the lien of the mortgage (1) 50 per centum of the Secretary's estimate of the value of such remaining land before development, plus (2) 90 per centum of the actual costs of the development allocated by the Secretary to such remaining land.

(b) Certification of actual costs of land development

From time to time during, and upon completion of, the development, the Secretary shall require the mortgagor to certify as to the actual costs of development of the land.

(c) Data and records accompanying certification

Certifications required pursuant to this section shall be accompanied by such data and records as the Secretary shall prescribe.

(d) Finality and incontestability of certification

A mortgagor's certification approved by the Secretary shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor.

(e) Definition of actual costs

As used in this section, the term "actual costs" means the costs (exclusive of kickbacks, rebates, or trade discounts) to the mortgagor of the improvements involved. These costs may include amounts paid for labor, materials, construction contracts, land planning, engineers' and architect's fees, surveys, taxes, and interest during development, organizational and legal expenses, such allocation of general overhead expenses as are acceptable to the Secretary, and other items of expense incidental to development which may be approved by the Secretary. If the Secretary determines there is an identity of interest between the mortgagor and the contractor, there may be included an allowance for contractor's profit in an amount deemed reasonable by the Secretary.

(June 27, 1934, ch. 847, title X, § 1013, formerly § 1012, as added Aug. 10, 1965, Pub. L. 89-117, title II, § 201(a), 79 Stat. 464, renumbered Nov. 3, 1966, Pub. L. 89-754, title IV, § 401(a), 80 Stat. 1271, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (e) of this section.

Subsec. (a). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's".

SUBCHAPTER IX-B—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES AND MEDICAL PRACTICE FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 24, 1702, 1715c, 1715h, 1715n, 1715r, 1731a of this title; title 11 section 663.

§ 1749aaa. Insurance of mortgages

(a) Authority of Secretary; termination date

The Secretary is authorized (1) to insure mortgages (including advances on such mortgages during construction), upon such terms and conditions as he may prescribe, in accordance with the provisions of this subchapter, and (2) to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon. No mortgage shall be insured under this subchapter after June 30, 1977, except pursuant to a commitment to insure issued before that date.

(b) Eligibility for insurance

To be eligible for insurance under this subchapter, the mortgage shall (1) be executed by a mortgagor that is a group practice unit or organization or other mortgagor approved by the Secretary, (2) be made to and held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly, and (3) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation and is designed for use as a group practice facility or medical practice facility which the Secretary finds will be constructed in an economical manner, will not be of elaborate or extravagant design or materials, and will be adequate and suitable for carrying out the purposes of this subchapter. No mortgage shall be insured under this subchapter unless it is shown to the satisfaction of the Secretary that the applicant would be unable to obtain the mortgage loan without such insurance on terms comparable to those specified in subsection (c) of this section.

(c) Replacement cost of property; maturity; amortization; interest rate

The mortgage shall—

(1) Repealed. Pub. L. 93-383, title III, § 304(*l*), Aug. 22, 1974, 88 Stat. 678.

(2) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when construction or rehabilitation is completed. The replacement cost of the property may include the land and the proposed physical improvements, equipment, utilities within the boundaries of the property, architects' fees, taxes, and interest accruing during construction or rehabilitation, and other miscel-

laneous charges incident to construction or rehabilitation and approved by the Secretary;

(3) have a maturity satisfactory to the Secretary but not to exceed twenty-five years from the beginning of the amortization of the mortgage, and provide for complete amortization of the principal obligation by periodic payments within such term as the Secretary shall prescribe; and

(4) bear interest (exclusive of premium charges for insurance, and service charges if any) at a rate of not to exceed 5 per centum per annum of the amount of the principal obligation outstanding at any time, or not to exceed such rate (not in excess of 6 per centum per annum) as the Secretary finds necessary to meet the mortgage market.

(d) Conclusiveness of insurance contract as to eligibility; validity of contract incontestable

Any contract of insurance executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract for insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(e) Undertaking

Each mortgage insured under this subchapter shall contain an undertaking (in accordance with regulations prescribed under this subchapter and in force at the time the mortgage is approved for insurance) to the effect that, except as authorized by the Secretary and the mortgagee, the property will be used as a group practice facility or medical practice facility until the mortgage has been paid in full or the contract of insurance otherwise terminated.

(f) Recordkeeping; reports; examination and audit

No mortgage shall be insured under this subchapter unless the mortgagor and the mortgagee certify (1) that they will keep such records relating to the mortgage transaction and indebtedness, to the construction of the facility covered by the mortgage, and to the use of such facility as a group practice facility or medical practice facility as are prescribed by the Secretary at the time of such certification, (2) that they will make such reports as may from time to time be required by the Secretary pertaining to such matters, and (3) that the Secretary shall have access to and the right to examine and audit such records.

(June 27, 1934, ch. 847, title XI, § 1101, as added Nov. 3, 1966, Pub. L. 89-754, title V, § 502(a), 80 Stat. 1274, and amended Aug. 1, 1968, Pub. L. 90-448, title XVII, § 1722(d), 82 Stat. 610; Sept. 30, 1969, Pub. L. 91-78, § 2(g), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title I, § 101(i), title IV, § 418(f), 83 Stat. 379, 402; Oct. 2, 1970, Pub. L. 91-432, § 1(g), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91-473, § 1(g), 84 Stat. 1065; Dec. 1, 1970, Pub. L. 91-525, § 1(g), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91-609, title I, § 101(i), 84 Stat. 1770; Oct. 18, 1972, Pub. L. 92-503, § 1(i), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93-85, § 1(i), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93-117, § 1(i), 87 Stat. 422; Aug. 22, 1974, Pub. L. 93-383, title III, §§ 304(*l*), 312(a)(1)-(4), 316(g), 88 Stat. 678, 683, 685.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383, § 316(g), substituted "June 30, 1977" for "October 1, 1974".

Subsec. (b). Pub. L. 93-383, § 312(a)(1), (2), in cl. (1) added "or other mortgagor" following "or organization", and in cl. (3) added "or medical practice facility" following "group practice facility".

Subsec. (c)(1). Pub. L. 93-383, § 304(*l*), struck out subsec. (c)(1) which set forth limitation on amount of mortgage.

Subsec. (e). Pub. L. 93-383, § 312(a)(3), added "or medical practice facility" following "group practice facility".

Subsec. (f). Pub. L. 93-383, § 312(a)(4), added "or medical practice facility" following "group practice facility".

1973—Subsec. (a). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Subsec. (a). Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Subsec. (a). Pub. L. 91-609 substituted "October 1, 1972" for "January 1, 1971".

Pub. L. 91-525 substituted "January 1, 1971" for "December 1, 1970".

Pub. L. 91-473 substituted "December 1, 1970" for "November 1, 1970".

Pub. L. 91-432 substituted "November 1, 1970" for "October 1, 1970".

1969—Subsec. (a). Pub. L. 91-152, § 101(i), substituted "October 1, 1970" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

Subsec. (c)(2). Pub. L. 91-152, § 418(f), substituted "replacement cost" for "value" wherever appearing therein.

1968—Subsec. (c)(3). Pub. L. 90-448 limited the term of the mortgage to not more than twenty-five years from the beginning of amortization of the mortgage.

DECLARATION OF PURPOSE

Section 501 of Pub. L. 89-754 provided that: "It is the purpose of this title [which enacted this subchapter and amended sections 24(7), 371, 1715c(a), and 1715r (intro. text) of this title and section 663 of Title 11, Bankruptcy, and section 77ddd of Title 15, Commerce and Trade] to assure the availability of credit on reasonable terms to units or organizations engaged in the group practice of medicine, optometry, or dentistry, particularly those in smaller communities and those sponsored by cooperative or other nonprofit organizations, to assist in financing the construction and equipment of group practice facilities."

MAXIMUM INTEREST RATES UNTIL JUNE 30, 1977

Authorization of Secretary of Housing and Urban Development to establish, until June 30, 1977, maximum interest rates for certain mortgage insurance programs, notwithstanding subsec. (c)(4) of this section, see section 1709-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1709-1 of this title.

§ 1749aaa-1. Premiums and other charges

The Secretary shall fix premium charges for the insurance of mortgages under this subchapter, but such charges shall not be more than 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. In addition to the premium charge, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the analysis of a proposed project and the appraisal

and inspection of the property and improvements. Where the principal obligation of any mortgage accepted for insurance under this subchapter is paid in full prior to the maturity date, the Secretary is authorized to require the payment by the mortgagee of an adjusted premium charge. This charge shall be in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until the maturity date. Where such prepayment occurs, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid. Premium charges fixed under this section shall be payable by the mortgagee either in cash, or in debentures which are the obligation of the General Insurance Fund at par plus accrued interest, at such times and in such manner as may be prescribed by the Secretary.

(June 27, 1934, ch. 847, title XI, § 1102, as added Nov. 3, 1966, Pub. L. 89-754, title V, § 502(a), 80 Stat. 1275.)

§ 1749aaa-2. Payment of insurance benefits

The mortgagee shall be entitled to receive the benefits of the insurance under this subchapter in the manner provided in subsection (g) of section 1713 of this title with respect to mortgages insured under that section. For such purpose the provisions of subsections (g), (h), (i), (j), (k), (*l*), and (n) of such section 1713 shall apply to mortgages insured under this subchapter and all references in such subsections to such section 1713 shall be deemed to refer to this subchapter.

(June 27, 1934, ch. 847, title XI, § 1103, as added Nov. 3, 1966, Pub. L. 89-754, title V, § 502(a), 80 Stat. 1275.)

§ 1749aaa-3. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out this subchapter, after consulting with the Secretary of Health, Education, and Welfare with respect to any health or medical aspects of the program under this subchapter which may be involved in such regulations.

(June 27, 1934, ch. 847, title XI, § 1104, as added Nov. 3, 1966, Pub. L. 89-754, title V, § 502(a), 80 Stat. 1275.)

§ 1749aaa-4. Administration

(a) Technical assistance

At the request of individuals or organizations operating or contemplating the operation of group practice facilities or medical practice facility (as defined in section 1749aaa-5 of this title), the Secretary may provide or obtain technical assistance in the planning for and construction of such facilities.

(b) Utilization of services and facilities of Federal agencies; payment; advances or reimbursement

With a view to avoiding unnecessary duplication of existing staffs and facilities of the Federal Government, the Secretary is authorized to utilize available services and facilities of any agency of the Federal Government in carrying out the provisions of this subchapter, and to pay for such services and facilities, either in advance or by way of reimbursement, in accordance with an agreement between the Secretary and the head of such agency.

(June 27, 1934, ch. 847, title XI, § 1105, as added Nov. 3, 1966, Pub. L. 89-754, title V, § 502(a), 80 Stat. 1276, and amended Aug. 22, 1974, Pub. L. 93-383, title III, § 312(a)(5), 88 Stat. 683.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383 substituted "or medical practice facility (as defined in section 1749aaa-5 of this title)" for "(as defined in section 1749aaa-5(1) of this title)".

§ 1749aaa-5. Definitions

For the purposes of this subchapter—

(1) The term "group practice facility" means a facility in a State for the provision of preventive, diagnostic, and treatment services to ambulatory patients (in which patient care is under the professional supervision of persons licensed to practice medicine or osteopathy in the State or, in the case of optometric care or treatment, is under the professional supervision of persons licensed to practice optometry in the State, or, in the case of dental diagnosis or treatment, is under the professional supervision of persons licensed to practice dentistry in the State, or, in the case of podiatric care or treatment, is under the professional supervision of persons licensed to practice podiatry in the State) and which is primarily for the provision of such health services by a medical or dental group.

(2) The term "medical practice facility" means an adequately equipped facility in which not more than four persons licensed to practice medicine in the State where the facility is located can provide, as may be appropriate, preventive, diagnostic, and treatment services, and which is situated in a rural area or small town, or in a low-income section of an urban area, in which there exists, as determined by the Secretary, a critical shortage of physicians. As used in this paragraph—

(A) the term "small town" means any town, village, or city having a population of not more than 10,000 inhabitants according to the most recent available data compiled by the Bureau of the Census; and

(B) the term "low-income section of an urban area" means a section of a larger urban area in which the median family income is substantially lower, as determined by the Secretary, than the median family income for the area as a whole.

(3) The term "medical or dental group" means a partnership or other association or group of persons licensed to practice medicine, osteopathy, or surgery in the State, or of persons licensed to practice optometry in the State, or of persons licensed to practice dentistry in the State, or of persons licensed to practice podiatry in the State, or of any combination of such persons, who, as their principal professional activity and as a group

responsibility, engage or undertake to engage in the coordinated practice of their profession primarily in one or more group practice facilities, and who (in this connection) share common overhead expenses (if and to the extent such expenses are paid by members of the group), medical and other records, and substantial portions of the equipment and the professional, technical, and administrative staffs, and which partnership or association or group is composed of at least such professional personnel and make available at least such health services as may be provided in regulations prescribed under this subchapter.

(4) The term "group practice unit or organization" means—

(A) a private nonprofit agency or organization undertaking to provide, directly or through arrangements with a medical or dental group, comprehensive medical care, osteopathic care, optometric care, dental care, or podiatric care, or any combination thereof, which may include hospitalization, to members or subscribers primarily on a group practice prepayments basis; or

(B) a private nonprofit agency or organization, established for the purpose of improving the availability of medical, osteopathic, optometric, dental or podiatric care in the community or having some function or functions related to the provision of such care, which will, through lease or other arrangement, make the group practice facility with respect to which assistance has been requested under this subchapter available to a medical or dental group for use by it.

(5) The term "nonprofit organization" means a corporation, association, foundation, trust, or other organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual except, in the case of an organization the purposes of which include the provision of personal health services to its members or subscribers or their dependents under a plan of such organization for the provision of such services to them (which plan may include the provision of other services or insurance benefits to them), through the provision of such health services (or such other services or insurance benefits) to such members or subscribers or dependents under such plan.

(6) The term "State" includes the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the District of Columbia.

(7) The term "mortgage" means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable, or (B) under a lease having a period of not less than fifty years to run from the date the mortgage was executed. The term "first mortgage" means such classes of first liens as are commonly given to secure advances (including but not limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty.

(8) The term "mortgagee" means the original lender under a mortgage, and his or its successors and assigns, and includes the holders of credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee named therein.

(9) The term "mortgagor" means the original borrower under a mortgage and his or its successors and assigns.

(June 27, 1934, ch. 847, title XI, § 1106, as added Nov. 3, 1966, Pub. L. 89-754, title V, § 502(a), 80 Stat. 1276, and amended Aug. 22, 1974, Pub. L. 93-383, title III, § 312(a)(6), (b), 88 Stat. 683, 684.)

AMENDMENTS

1974—Par. (1). Pub. L. 93-383, § 312(b)(1), added references to practice of osteopathy and authorized inclusion of podiatric care or treatment under the professional supervision of persons licensed to practice podiatry in the State.

Par. (2). Pub. L. 93-383, § 312(a)(6), added par. (2). Former par. (2) redesignated (3).

Par. (3). Pub. L. 93-383, § 312(a)(6), (b)(2), redesignated former par. (2) as par. (3), and, as so redesignated, added references to persons licensed to practice osteopathy and persons licensed to practice podiatry. Former par. (3) redesignated (4).

Par. (4). Pub. L. 93-383, § 312(a)(6), (b)(3), (4), redesignated former par. (3) as par. (4), and, as so redesignated, in cls. (A) and (B) added references to osteopathic care and podiatric care wherever appearing therein. Former par. (4) redesignated (5).

Pars. (5) to (9). Pub. L. 93-383, § 312(a)(6), redesignated former pars. (4) to (8) as pars. (5) to (9), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749aaa-4 of this title.

SUBCHAPTER IX-C—NATIONAL INSURANCE DEVELOPMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1735d of this title; title 42 section 1452b.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 35-1701 of the District of Columbia Code.

§ 1749bbb. Program authority; termination date; report to the Congress

(a) The Secretary is authorized to establish and carry out the programs provided for in parts A, B, C, and D of this subchapter.

(b)(1) The powers of the Secretary under this subchapter shall terminate on April 30, 1977, except to the extent necessary—

(A) to continue reinsurance and direct insurance in accordance with the provisions of sections 1749bbb-9(b) and 1749bbb-10a(c) of this title until April 30, 1978;

(B) to process, verify, and pay claims for reinsured losses and directly insured losses and perform other necessary functions in connection therewith; and

(C) to complete the liquidation and termination of the reinsurance and direct insurance programs.

(2) On April 30, 1978, or as soon thereafter as possible, the Secretary shall submit to the Congress, for its approval, a plan for the liquidation and termination of the reinsurance and direct insurance programs.

(June 27, 1934, ch. 847, title XII, § 1201, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 556, and amended Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(a), 84 Stat. 1788; Apr. 8, 1975, Pub. L. 94-13, § 2, 89 Stat. 69.)

AMENDMENTS

1975—Subsec. (b)(1). Pub. L. 94-13 extended termination date for powers of Secretary to Apr. 30, 1977, from Apr. 30, 1975.

1970—Subsec. (a). Pub. L. 91-609 inserted reference to part D of this subchapter.

Subsec. (b). Pub. L. 91-609 extended termination date for powers of Secretary in par. (1) from Apr. 30, 1973, to Apr. 30, 1975; provided for continuation of direct insurance and for continuation of insurance in accordance with section 1749bbb-11(c) of this title, and extended continuation date from Apr. 30, 1976, to Apr. 30, 1978, in par. (1)(A); provided for claims for directly insured losses in par. (1)(B); provided for liquidation and termination of direct insurance programs in pars. (1)(C) and (2), and extended date for submission of liquidation plan from Apr. 30, 1976, to Apr. 30, 1978, in par. (2).

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 1 of Pub. L. 94-13 provided that:

"(a) The Congress finds that (1) under the Housing and Urban Development Act of 1968 (Public Law 90-448, approved August 1, 1968), as amended [this subchapter], the powers of the Secretary of the Department of Housing and Urban Development to enter into new reinsurance contracts with respect to the Federal riot reinsurance program and into new direct insurance contracts with respect to the Federal crime insurance program will terminate on April 30, 1975, except to the extent necessary (a) to continue policies of direct insurance and reinsurance, until April 30, 1978, (b) to handle claims and those arising under the policies still in force on the termination date of the program, and (c) to complete the liquidation and termination of the reinsurance and direct insurance programs; (2) continuation of the Federal riot reinsurance program is essential both to the operation of the system of State FAIR plans, which provide access for many people to basic property insurance not otherwise available in urban areas, and to the continued existence of such FAIR plans inasmuch as many State laws condition the very existence of such FAIR plans upon the continued existence of the Federal riot reinsurance program; (3) continuation of the Federal crime insurance program, which provides access for many homeowners, tenants, and small businessmen to burglary, robbery, and similar coverages, in States where an insurance coverage availability problem exists, is likewise essential; (4) withdrawal at this time of the Federal support which these programs give to the insurance buying public and the insurers would be particularly ill timed and inadvisable in view of the (a) threatening major shortage of voluntary insurance facilities to which the consumer can turn to fulfill his insurance purchase needs and (b) the potential for insurer insolvencies inherent in times of economic stress; and (5) the impending tightening of the availability of insurance coverage in the insurance market will only intensify due to the present economic conditions confronting insurers, which affect the capital adequacies of insurers due to severe declines in the values of insurers' securities portfolios, thus impacting on their ability to increase their underwritings in a growing insurance market.

"(b) The purpose of this Act, therefore, is to extend the duration of the national insurance development program so as to maintain the Federal riot reinsurance program which reinsures the general property insurance business against the catastrophic peril of riot and, thus, makes this insurance available, together with its review and compliance function which assures that the intent of the Housing and Urban Development Act of 1968 (Public Law 90-448, approved August 1, 1968) as amended [this subchapter] is carried out, as well as the Federal crime insurance program which provides basic crime insurance coverages in the States where it is needed, both of which programs aid the insurance purchasing consumer when, from time to time and especially in times such as these, insurers engage in conscious policies of market constriction which lead to serious inner-city insurance availability problems of the kind the national insurance development program has been created to ameliorate."

Section 1102 of Pub. L. 90-448, as amended by Pub. L. 91-609, title VI, § 601, Dec. 31, 1970, 84 Stat. 1788, provided that:

"(a) The Congress finds that (1) the vitality of many American cities is being threatened by the deterioration of their inner city areas; responsible owners of well-maintained residential, business, and other properties in many of these areas are unable to obtain adequate property insurance coverage against fire, crime, and other perils; the lack of such insurance coverage accelerates the deterioration of these areas by discouraging private investment and restricting the availability of credit to repair and improve property therein; and this deterioration poses a serious threat to the national economy; (2) recent riots and other civil commotion in many American cities have brought about abnormally high losses to the private property insurance industry for which adequate reinsurance cannot be obtained at reasonable cost, and the risk of such losses will make most lines of property insurance even more difficult to obtain; (3) the capacity of the private property insurance industry to provide adequate insurance is threatened, and the continuity of such property insurance protection is essential to the extension of credit in these areas; and (4) the national interest demands urgent action by the Congress to assure that essential lines of property insurance, including lines providing protection against riot and civil commotion damage will be available to property owners at reasonable cost.

"(b) The purposes of this title [this subchapter] are, therefore, to (1) encourage and assist the various State insurance authorities and the property insurance industry to develop and carry out statewide programs which will make necessary property insurance coverage against the fire, crime, and other perils more readily available for residential, business, and other properties meeting reasonable underwriting standards; (2) provide a Federal program of reinsurance against abnormally high property insurance losses resulting from riots and other civil commotion, placing appropriate financial responsibility upon the States to share in such losses; and (3) provide direct insurance through the facilities of the Federal Government in the case of properties for which statewide programs and the Federal reinsurance program either do not make crime insurance available or offer such insurance to property owners only at prohibitive cost."

§ 1749bbb-1. Advisory Board

(a) Establishment; membership; Chairman and Vice Chairman; term; vacancies

(1) There is established an Advisory Board (hereinafter called the "Board") consisting of nineteen members appointed by the Secretary.

Members of the Board shall be selected from among representatives of the general public, the insurance industry, State and local governments including State insurance authorities, and the Federal Government. Of these members of the Board, not more than six shall be regular full-time employees of the Federal Government, and not less than four shall be representatives of the private insurance industry and not less than four shall be representatives of State insurance authorities.

(2) The Secretary shall designate a Chairman and a Vice Chairman of the Board.

(3) Each member shall serve for a term of two years or until his successor has been appointed, except that no person who is appointed while a fulltime employee of a State or the Federal Government shall serve in such position after he ceases to be so employed, unless he is reappointed.

(4) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of that term.

(b) Meetings

The Chairman shall preside at all meetings, and the Vice Chairman shall preside in the absence or disability of the Chairman. In the absence of both the Chairman and Vice Chairman, the Secretary may appoint any member to act as Chairman pro tempore. The Board shall meet at such times and places as it or the Secretary may fix and determine, but shall hold at least four regularly scheduled meetings a year. Special meetings may be held at the call of the Chairman or any three members of the Board, or at the call of the Secretary.

(c) Functions

The Board shall review general policies and shall advise the Secretary with respect thereto, and perform such other functions as are specified in this subchapter.

(d) Compensation and travel expenses

The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States, and such members, except those who are regular full-time employees of the Government, shall receive for their services, as members, the per diem equivalent to the rate for grade GS–18 of the General Schedule under section 5332 of title 5 when engaged in the performance of their duties, and each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(June 27, 1934, ch. 847, title XII, § 1202, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 556.)

TERMINATION OF ADVISORY BOARDS

Advisory boards in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1749bbb–2. Definitions

(a) When used in this subchapter, unless the context otherwise requires, the term—

(1) "affordable rate" means such premium rate as the Secretary determines would permit the purchase of a specific type of insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved;

(2) "crime insurance" means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, and may include broad form personal theft insurance, mercantile open stock insurance, mercantile robbery and mercantile safe burglary insurance, storekeepers burglary and robbery insurance, office burglary and robbery insurance, and may include business interruption insurance as the Secretary may designate; the term does not include automobile insurance or losses resulting from embezzlement;

(3) "directly insured losses" means losses on direct insurance claims and all direct expenses incurred in connection therewith, including but not limited to expenses for processing, verifying, and paying such losses;

(4) "environmental hazard" means any hazardous condition that might give rise to loss under an insurance contract, but which is beyond the control of the property owner;

(5) "essential property insurance" means insurance against direct loss to property as defined and limited in standard fire policies and extended coverage endorsement thereon, as approved by the State insurance authority, and insurance, for such types, classes, and locations of property against the perils of vandalism, malicious mischief, burglary, or theft, as the Secretary by rule shall designate. Such insurance shall not include automobile insurance and shall not include insurance on such types of manufacturing risks as may be excluded by the State insurance authority;

(6) "inspection facility", with respect to any State, means any rating bureau or other person designated by the State insurance authority to perform inspections under fair access to insurance requirements plans under part A;

(7) "insurer" includes any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of any State;

(8) "pool" means any pool or association of insurance companies in any State which is formed, associated, or otherwise created for the purpose of making property insurance more readily available;

(9) "losses resulting from riots or civil disorders" means losses resulting from riots or civil disorders under policies for standard lines of property insurance for which reinsurance is offered under section 1749bbb–7 of this title, as determined under regulations of the Secretary;

(10) "property owner" with respect to any real, personal, or mixed real and personal

property, means any person having an insurable interest in such property;

(11) "person" includes any individual or group of individuals, corporation, partnership, or association, or any other organized group of persons;

(12) "reinsured losses" means losses on reinsurance claims and all direct expenses incurred in connection therewith including, but not limited to, expenses for processing, verifying, and paying such losses;

(13) "standard line of property insurance" includes—

(A) fire and extended coverage;

(B) vandalism and malicious mischief;

(C) other allied lines of fire insurance;

(D) burglary and theft;

(E) those portions of multiple peril policies covering perils similar to those provided for in subparagraphs (A), (B), (C), and (D);

(F) inland marine;

(G) glass;

(H) boiler and machinery;

(I) ocean marine;

(J) aircraft physical damage; and

(K) such other lines generally offered to the public which include protection against damage from riot or civil commotion as the Secretary by regulation may designate;

(14) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions, and the Trust Territory of the Pacific Islands;

(15) "urban area" includes any municipality or other political subdivision of a State, subject to population or other limitations defined in rules and regulations of the Secretary and such additional areas as may be designated by the State insurance authority; and

(16) "year" means a calendar year, fiscal year of a company, or such other period of twelve months as may be designated by the Secretary.

(b) The Secretary is authorized to define, by rules and regulations, any technical or trade term, insofar as such definition is not inconsistent with the provisions of this subchapter.

(June 27, 1934, ch. 847, title XII, § 1203, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 557, and amended Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(b), 84 Stat. 1788.)

AMENDMENTS

1970—Subsec. (a)(1) to (3). Pub. L. 91-609 added pars. (1) to (3). Former pars. (1) to (3) redesignated (4) to (6).

Subsec. (a)(4) to (13). Pub. L. 91-609 redesignated former pars. (1) to (3) as (4) to (6) and former pars. (4) to (13) as (7) to (16).

Subsec. (a)(14) to (16). Pub. L. 91-609 redesignated former pars. (11) to (13) as (14) to (16).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb-7 of this title.

PART A—STATEWIDE PLANS TO ASSURE FAIR ACCESS TO INSURANCE REQUIREMENTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1749bbb, 1749bbb-2, 1749bbb-7, 1749bbb-9, 1749bbb-16 of this title.

PART REFERRED TO IN D.C. CODE

This part is referred to in section 35-1704 of the District of Columbia Code.

§ 1749bbb-3. FAIR plans

(a) Cooperation by insurers with State insurance authorities

Each insurer reinsured under this subchapter shall cooperate with the State insurance authority in each State in which it is to acquire such reinsurance in establishing and carrying out statewide plans to assure fair access to insurance requirements (FAIR plans).

(b) Approval and administration of plans; provisions of plans

Such plans must be approved by, and administered under the supervision of, the State insurance authority, or be authorized or required by State law, and shall be designed to make essential property insurance more readily available in, but not necessarily limited to, urban areas. Such plans may vary in detail from State to State because of local conditions, but all plans shall contain provisions that—

(1) no risk shall be written at surcharged rates or be denied insurance coverage for essential property insurance unless there has first been an inspection of the risk, without cost to the owner, by an inspection facility and a determination by the insurer, based on information in the inspection report and other sources, that the risk does not meet reasonable underwriting standards at the applicable premium rate;

(2) inspections under the plan may be requested by the property owner or his representative, the insurer, or the insurance agent, broker or other producer, and such requests need not be made in writing;

(3) the absence of a building owner or his representative during an inspection shall not preclude a tenant seeking insurance from obtaining an inspection under the plan;

(4) following the inspection, a copy of the inspection report shall be promptly sent by the inspection facility to the insurer or insurers, or to an all-industry placement facility referred to under section 1749bbb-4 of this title, as may be designated by the person requesting the inspection;

(5) after the inspection report is received by an insurer, it shall promptly determine if the risk meets reasonable underwriting standards at the applicable premium rate, and shall promptly return to the inspection facility the inspection report and provide an action report setting forth—

(A)(i) the amount of coverage it agrees to write; and if the insurer agrees to write the coverage with a surcharge (if such a surcharge is authorized by the State insurance authority), the improvements necessary before it will provide coverage at an unsurcharged premium rate; and

(ii) the amount of coverage it agrees to write if certain improvements specified in the action report are made; or

(B) the specific reasons it declines to write coverage;

(6) if the insurer declines the risk, or agrees to write the coverage sought on condition that the property will be improved, it shall also promptly send a copy of both the inspection and action reports to the property owner and the State insurance authority, and at the time the insurer sends such reports to the property owner, it shall also explain his right, under applicable State laws, to appeal the decision of the insurer to the State insurance authority, setting forth the procedures to be followed for such appeal;

(7) all policies written pursuant to the plan shall be promptly written after inspection or reinspection and shall be separately coded so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the plan;

(8) the inspection facility shall submit to the State insurance authority and to the Secretary periodic reports setting forth information, by individual insurers, including the number of risks inspected under the plan, the number of risks accepted, the number of risks conditionally accepted and reinspections made, the number of risks declined, and such other information as the State insurance authority may request;

(9) notice will be given to any policyholder a reasonable time prior to the cancellation or nonrenewal of any risk eligible under the plan (except in case of nonpayment of premium or evidence of incendiarism), to allow ample time for an application for new coverage to be made and a new policy to be written under the plan, and the insurer shall, in writing, explain to the policyholder the procedures for obtaining an inspection under the plan in the notice of cancellation or nonrenewal; and

(10) a continuing public education program will be undertaken by the participating insurers, agents, and brokers to assure that the plan receives adequate public attention.

(June 27, 1934, ch. 847, title XII, § 1211, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 558.)

§ 1749bbb-4. All-industry placement facility

Any plan under this part shall include an all-industry placement facility doing business with every insurer participating in the plan in the State, and shall provide that this facility shall perform certain functions including, but not limited to, the following:

(1) seeking, upon request by or on behalf of any property owner requesting an inspection under the plan, to distribute the risks involved equitably among the insurers with which it is doing business; and

(2) seeking to place insurance up to the full insurable value of the risk to be insured with one or more insurers with which it is doing business, except to the extent that deductibles, percentage participation clauses, and other underwriting devices are employed to meet special problems of insurability.

(June 27, 1934, ch. 847, title XII, § 1212, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 560.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb-3 of this title.

§ 1749bbb-5. Industry cooperation

(a) Each insurer seeking reinsurance under this subchapter shall file a statement with the State insurance authority in each State in which it is participating in a plan under this part, pledging its full participation and cooperation in carrying out the plan, and shall file a copy of such statement with the Secretary.

(b) No insurer acquiring reinsurance under this subchapter shall direct any agent or broker or other producer not to solicit business through such a plan, nor shall any agent, broker, or other producer be penalized by such insurer in any way for submitting applications for insurance to an insurer under the plan.

(June 27, 1934, ch. 847, title XII, § 1213, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 560.)

§ 1749bbb-6. Plan evaluation; modification or waiver of plan criteria

(a) In accordance with such rules and regulations as the Secretary may prescribe, each State insurance authority shall—

(1) transmit to the Secretary any proposed or adopted plan, or amendments thereto; and

(2) advise the Secretary, from time to time, concerning the operation of the plan, its effectiveness in providing essential property insurance, and the need to form a pool of insurers or adopt other programs to make essential property insurance more readily available in urban areas of the State.

(b) The Secretary may, after full consultation with the Board, by rules and regulations, modify the plan criteria set forth under this part, if he finds, on the basis of experience, that such action is necessary or desirable to carry out the purposes of this subchapter. The Secretary may also, with respect to any State, waive compliance with one or more of the plan criteria, upon certification by the State insurance authority that compliance is unnecessary or inadvisable under local conditions or State law.

(June 27, 1934, ch. 847, title XII, § 1214, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 560.)

§ 1749bbb-6a. Office of Review and Compliance

The Secretary, through an Office of Review and Compliance under the Federal Insurance Administrator, shall periodically review each plan under this part and the methods and practices by which such plan is being actually carried out in the areas and communities where it is intended to operate, in order to assure that such plan is effectively making essential property insurance readily available in such areas and communities and is otherwise carrying out

the purposes of this subchapter, and in order to identify any aspects of the operation or administration of such plan which may require revision, modification, or other action to carry out such purposes.

(June 27, 1934, ch. 847, title XII, § 1215, as added Dec. 31, 1970, Pub. L. 91-609, title VI, § 603, 84 Stat. 1791.)

PART B—REINSURANCE COVERAGE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1749bbb, 1749bbb-13 of this title.

PART REFERRED TO IN D.C. CODE

This part is referred to in sections 35-1702, 35-1710 of the District of Columbia Code.

§ 1749bbb-7. Reinsurance of losses from riots or civil disorders

(a) Authorization; lines of property insurance included

(1) The Secretary is authorized to offer to any insurer or pool, subject to the conditions set forth in section 1749bbb-9 of this title, reinsurance against property losses resulting from riots or civil disorders in any one or more States.

(2) Reinsurance shall be offered to any such insurer or pool only on all standard lines of property insurance enumerated under subparagraphs (A) through (E) of section 1749bbb-2(a)(13) of this title together, and any insurer or pool purchasing such reinsurance shall also be eligible, to purchase reinsurance on any one or more standard lines of property insurance enumerated under subparagraphs (F) through (J) of section 1749bbb-2(a)(13) of this title or which may be designated by regulation pursuant to subparagraph (K) of that section.

(b) Temporary coverage

Reinsurance coverage under this section may be provided immediately following August 1, 1968, to any insurer or pool in any State on a temporary basis, and on such terms and conditions as may be agreed upon, and coverage under such terms and conditions may be bound with respect to any such insurer or pool by means of a written binder which shall remain in force not more than ninety days and shall expire at the earlier of either—

(1) the termination of such ninety-day period, or

(2) the effective date of any governing contract, agreement, treaty, or other arrangement entered into between the insurer or pool and the Secretary under section 1749bbb-8 of this title for the purpose of providing reinsurance coverage against losses resulting from riots or civil disorders.

(c) Participation in State plan or pool

No reinsurance shall be offered to any insurer or pool in a State after the expiration of the written binder entered into under subsection (b) of this section, unless there is in effect in such State a plan as set forth under part A and the insurer or pool is participating in such plan, and unless, in the case of an insurer in a State where a pool has been established pursuant to State Law, the insurer is participating in such a pool.

(June 27, 1934, ch. 847, title XII, § 1221, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 560, and amended Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(c), 84 Stat. 1789.)

AMENDMENTS

1970—Subsec. (a)(2). Pub. L. 91-609 substituted reference to section "1749bbb-2(a)(13)" of this title for "1749bbb-2(a)(10)", in two instances.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb-2 of this title.

§ 1749bbb-8. Reinsurance agreements and premiums

(a) Authorization to enter into contracts, agreements, treaties, or other arrangements for reinsurance coverage

During the first year following August 1, 1968, the Secretary is authorized to enter into any contract, agreement, treaty, or other arrangement with any insurer or pool for reinsurance coverage, in consideration of payment of such premiums, fees, or other charges by insurers or pools which the Secretary, after full consultation with the Board, deems to be adequate to obtain aggregate reinsurance premiums for deposit in the National Insurance Development Fund established under section 1749bbb-13 of this title in excess of the estimated amount of insured riot losses during the calendar year 1967, on the assumption that a substantial proportion of the property insurance written will be reinsured under this subchapter, and thereafter the Secretary may increase or decrease such premiums for reinsurance if it is found after full consultation with the Board and the National Association of Insurance Commissioners that such action is necessary or appropriate to carry out the purposes of this subchapter.

(b) Reimbursement for total proved and approved claims for covered losses

Reinsurance offered under this subchapter shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from riots of civil disorders during the term of the reinsurance contract, agreement, treaty, or other arrangement, over and above the amount of the insurers' or pool's retention of such losses as provided in such reinsurance contract, agreement, treaty, or other arrangement entered into under this section.

(c) Terms and conditions of contracts, etc., uniformity of rates, terms and conditions

Such contracts, agreements, treaties, or other arrangements may be made without regard to section 665(a) of title 31, and shall include any terms and conditions which the Secretary deems necessary to carry out the purposes of this subchapter. The premium rates, terms, and conditions of such contracts with insurers or pools, throughout the country, in any one year shall be uniform.

(d) Expiration date of contracts, etc.

Any contract, agreement, treaty, or other arrangement for reinsurance under this section shall be for a term expiring on April 30, 1969, and on April 30 each year thereafter.

(June 27, 1934, ch. 847, title XII, § 1222, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 561, and amended Dec. 24, 1969, Pub. L. 91-152, title IV, § 405, 83 Stat. 396; Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(e), 84 Stat. 1790.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-609 renumbered section 1233 to be 1243 of act June 27, 1934, without affecting its designation in the text as section 1749bbb-13.

1969—Subsec. (d). Pub. L. 91-152 struck out the requirement that any contract, etc., for reinsurance be entered into within 90 days after Aug. 1, 1968, or within 90 days prior to Apr. 30 each year thereafter, or within 90 days after an insurer is authorized to write insurance eligible for reinsurance in a State which it was not authorized to write in the preceding year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1749bbb-7, 1749bbb-9, 1749bbb-14 of this title.

§ 1749bbb-9. Conditions of reinsurance

(a) Subject to the provisions of subsection (b) of this section, reinsurance shall not be offered by the Secretary in a State or be applicable to insurance policies written in that State by an insurer—

(1) in any States which has not, after the close of the second full regular session of the appropriate State legislative body following August 1, 1968, adopted appropriate legislation, retroactive to August 1, 1968, under which the State, its political subdivisions, or a governmental corporation or fund established pursuant to State law, will reimburse the Secretary for any reinsured losses in that State in any reinsurance contract year, in an amount up to 5 per centum of the aggregate property insurance premiums earned in that State during the calendar year immediately preceding the end of the reinsurance contract year on those lines of insurance reinsured by the Secretary in that State during the contract year, to the extent that reinsured losses paid by the Secretary for such year exceed the total of (A) reinsurance premiums earned in that State during that reinsurance contract year plus (B) the excess of (i) the total premiums earned by the Secretary for reinsurance in that State during a preceding period measured from the end of the most recent reinsurance contract year with respect to which the Secretary was reimbursed for losses under this subchapter over (ii) any amounts paid by the Secretary for reinsured losses that were incurred during such period;

(2) after thirty days following notification to the insurer that the Secretary finds (after consultation with the State insurance authority) that there has not been adopted by the State, or the property insurance industry in that State, a suitable program or programs, in addition to plans under part A, to make essential property insurance available without regard to environmental hazards, and that such action is necessary to carry out the purposes of this subchapter; except that this paragraph shall not become effective until two years after August 1, 1968, or at such earlier date as the Secretary, after consultation with the State insurance authority, may determine;

(3) after thirty days following notification to the insurer that the Secretary, or the State insurance authority, finds that such insurer is not fully participating—

(A) in the plan in the State;

(B) where it exists, in a pool; and

(C) where it exists, in any other program found by the Secretary to aid in making essential property insurance more readily available in the State:

Provided, That the Secretary shall not make any such finding with respect to any insurer unless (i) prior to making such finding the Secretary has requested and considered the views of the State insurance authority as to whether such finding should be made, or (ii) the Secretary has made such a request in writing to the State insurance authority and such authority has failed to respond thereto within a reasonable period of time after receiving such request;

(4) following a merger, acquisition, consolidation or reorganization involving one or more insurers having lines of property insurance in the State reinsured under this subchapter and one or more insurers with or without such reinsurance, unless the surviving company—

(A) meets the criteria of eligibility for reinsurance, other than as provided under section 1749bbb-8(d) of this title; and

(B) within ten days pays any reinsurance premiums due; or

(5) upon receipt of notice from the insurer or pool that it desires to cancel its reinsurance agreement with the Secretary in the State.

(b) Notwithstanding the foregoing provisions of this section, reinsurance may be continued for the term of the policies written prior to the date of termination or nonrenewal of reinsurance under this section, for as long as the insurer pays reinsurance premiums annually in such amounts as are determined under section 1749bbb-8 of this title, based on the annual premiums earned on such reinsured policies, and for the purpose of this subsection, the renewal, extension, modification, or other change in a policy, for which any additional premium is charged, shall be deemed to be a policy written on the date such change was made.

(June 27, 1934, ch. 847, title XII, § 1223, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 562, and amended Dec. 24, 1969, Pub. L. 91-152, title IV, § 406, 83 Stat. 396.)

AMENDMENTS

1969—Subsec. (a)(1). Pub. L. 91-152 substituted provisions requiring appropriate legislation to be adopted by the close of the second full regular session of the appropriate State legislative body following Aug. 1, 1968 for provisions requiring such legislation to be adopted within one year following Aug. 1, 1968, or by the close of the next regular session of the appropriate State legislative body if that body had not met in regular session during that year, and provisions computing the requisite amount of State reimbursement on the basis of the reinsurance contract year for provisions computing such amount on the basis of the calendar year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1749bbb, 1749bbb-7, 1749bbb-20 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 35-1710 of the District of Columbia Code.

§ 1749bbb-10. Recovery of premiums; jurisdiction; limitations

(a) The Secretary, in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Secretary.

(b) No action or proceeding shall be brought for the recovery of any premium due to the Secretary for reinsurance, or for the recovery of any premium paid to the Secretary in excess of the amount due to him, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Secretary a false or fraudulent annual statement, or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Secretary.

(June 27, 1934, ch. 847, title XII, § 1224, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 563.)

PART C—FEDERAL INSURANCE AGAINST BURGLARY AND THEFT

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1749bbb, 1749bbb-13 of this title.

§ 1749bbb-10a. Review and program authority

(a) Review of market availability

The Secretary shall conduct a continuing review of the market availability situation in each of the several States to determine whether crime insurance is available at affordable rates either through the normal insurance market or through a suitable program adopted under State law.

(b) Government crime insurance

Upon determining pursuant to subsection (a) of this section that, at any time on or after August 1, 1971, a critical market unavailability situation for crime insurance then exists in any State and has not been met through appropriate State action, the Secretary is authorized to make crime insurance available at affordable rates within such State through the facilities of the Federal Government. Such insurance shall be provided upon such terms and conditions, and subject to such deductibles and other restrictions and limitations, as the Secretary deems appropriate, but no such insurance shall be made available to a property which the Secretary determines to be uninsurable or to a property with respect to which reasonable protective measures to prevent loss, consistent with standards established by the Secretary, have not been adopted.

(c) Termination of insurance

Notwithstanding any other provision of this subchapter, direct insurance may be continued for the term of the policies written prior to the date of termination of the Secretary's direct insurance authority under this part, for as long as the insured pays the required direct insurance premiums; except that direct insurance under this part for any risk shall be terminated after notice whenever the Secretary determines that the standard lines of crime insurance otherwise have become available to such property at affordable rates.

(June 27, 1934, ch. 847, title XII, § 1231, as added Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1789.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb of this title.

§ 1749bbb-10b. Use of existing facilities and services

In carrying out his responsibilities under this part, the Secretary may utilize—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States,

(2) officers and employees of the Department of Housing and Urban Development, and such other officers and employees of any executive agency (as defined in section 105 of title 5) as the Secretary and the head of any such agency may from time to time agree upon, on a reimbursement or other basis, or

(3) both the alternatives specified in paragraphs (1) and (2), or any combination thereof.

(June 27, 1934, ch. 847, title XII, § 1232, as added Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1789.)

§ 1749bbb-10c. Affordable rates; establishment; factors considered; uniform national rates; periodic modification

In estimating the affordable rates for the various crime insurance coverages offered from time to time under this part, the Secretary shall consult with appropriate State insurance authorities and other knowledgeable persons and is authorized to take into consideration the nature and degree of the risks involved, the protective devices employed, the extent of anticipated losses, the prevailing rates for similar coverages in adjacent or comparable areas and territories, the economic importance of the various individual coverages and the type of property involved, and the relative abilities of the particular classes and types of insureds to pay the full estimated costs of such coverages. Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of currently estimated affordable rates for any particular line or subline of coverage, class, State, territory, or risk on the basis of additional information or actual loss experience.

(June 27, 1934, ch. 847, title XII, § 1233, as added Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1790.)

§ 1749bbb–10d. Reports on operations

The Secretary shall include in his reports to the Congress on the program authorized by this subchapter full and complete information on his operations and activities under this part, together with such recommendations with respect thereto as he may deem appropriate.

(June 27, 1934, ch. 847, title XII, § 1234, as added Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1790.)

PART D—GENERAL PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1749bbb of this title.

§ 1749bbb–11. Submission of claims; judicial review; jurisdiction; limitations

(a) All reinsurance or direct insurance claims for losses under this subchapter shall be submitted by insurers or property owners in accordance with such terms and conditions as may be established by the Secretary.

(b)(1) Upon disallowance of any claim under color of reinsurance or direct insurance made available under this subchapter, or upon refusal of the claimant to accept the amount allowed upon any such claim, the claimant may institute an action against the Secretary on such claim in the United States district court for the district in which a major portion (in terms of value) of the claim arose.

(2) Any such action must be begun within one year after the date upon which the claimant received written notice of disallowance or partial disallowance of the claim, and exclusive jurisdiction is hereby conferred upon United States district courts to hear and determine such actions without regard to the amount in controversy.

(June 27, 1934, ch. 847, title XII, § 1241, formerly § 1231, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 563, renumbered and amended Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), (g), (h), 84 Stat. 1789, 1790.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–609, § 602(g), provided for direct insurance claims and submission of claims by property owners.

Subsec. (b)(1). Pub. L. 91–609, § 602(h), provided for disallowance of claim under color of direct insurance.

§ 1749bbb–12. Fiscal intermediaries and servicing agents

(a) In order to provide for maximum efficiency in the administration of the reinsurance and direct insurance programs under this subchapter, and in order to facilitate the expeditious payment of any funds under such program, the Secretary may enter into contracts with any insurer, pool, or other person, for the purpose of providing for the performance of any or all of the following functions:

(1) estimating or determining any amounts of payments for reinsurance or direct insurance claims;

(2) receiving and disbursing and accounting for funds in making payments for reinsurance or direct insurance claims;

(3) auditing the records of any insurer, pool, or other person to the extent necessary to assure that proper payments are made;

(4) establishing the basis of liability for reinsurance or direct insurance payments, including the total amount of proved and approved claims which may be payable to any insurer or property owner, and the total amount of premiums earned by any insurer in the respective States for reinsured or directly insured lines of property insurance; and

(5) otherwise assisting in any manner provided in the contract to further the purposes of this subchapter.

(b)(1) Any such contract may require the insurer, pool, or other person, or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amounts as the Secretary may deem appropriate.

(2) In the absence of gross negligence or intent to defraud the United States—

(A) no individual designated pursuant to a contract under this section to certify payments shall be liable with respect to any payment certified by him under this section; and

(B) no officer of the United States disbursing funds shall be liable with respect to any otherwise proper payment by him if it was based on a voucher signed by an individual designated pursuant to a contract under this section to certify payments.

(June 27, 1934, ch. 847, title XII, § 1242, formerly § 1232, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 563, renumbered and amended Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), (i), 84 Stat. 1789, 1790.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91–609, § 602(i), provided for: administration of direct insurance in introductory text, payments for direct insurance claims in pars. (1) and (2), and liability for direct insurance payments, payment of claims to any property owner, and premium for directly insured lines of property insurance in par. (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb–14 of this title.

§ 1749bbb–13. National Insurance Development Fund

(a) Establishment

To carry out the programs authorized under this subchapter, the Secretary is authorized to establish a National Insurance Development Fund (hereinafter called the "fund") which shall be available, without fiscal year limitations—

(1) to make such payments as may, from time to time, be required under reinsurance and direct insurance contracts under this subchapter;

(2) to pay such administrative expenses as may be necessary or appropriate to carry out the purposes of this subchapter; and

(3) to repay to the Secretary of the Treasury such sums, including interest thereon, as may be borrowed from him for purposes of

such programs under section 1735d(b) of this title.

(b) Credits to fund

The fund shall be credited with—

(1) reinsurance and direct insurance premiums, fees, and other charges which may be paid or collected in connection with reinsurance and direct insurance provided under parts B and C;

(2) interest which may be earned on investments of the fund;

(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(4) such amounts which are hereby authorized to be appropriated as may be necessary from time to time to reimburse the fund for losses and expenses (including administrative expenses) incurred in carrying out the program authorized under part C;

(5) receipts from any other source which may, from time to time, be credited to the fund; and

(6) funds borrowed by the Secretary under section 1735d(b) of this title and deposited in the fund.

(c) Investment in obligations issued or guaranteed by United States

If, after any amounts which may have been advanced to the fund from appropriations have been credited to the appropriation from which advanced (including interest thereon at the rate prescribed under section 1735d(b) of this title), the Secretary determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(d) Annual budget

An annual business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by law (sections 847, 848, and 849 of title 31) for wholly owned Government corporations.

(June 27, 1934, ch. 847, title XII, § 1243, formerly § 1233, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 564, renumbered and amended Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), (j), 84 Stat. 1789, 1790.)

AMENDMENTS

1970—Subsec. (a)(1). Pub. L. 91-609, § 602(j)(1), provided for payments under direct insurance contracts.

Subsec. (b)(1). Pub. L. 91-609, § 602(j)(1), (2), provided the fund with a credit for direct insurance premiums and in connection with direct insurance and inserted reference to part C, respectively.

Subsec. (b)(4). Pub. L. 91-609, § 602(j)(3), added cl. (4). Former cl. (4) redesignated (5).

Subsec. (b)(5), (6). Pub. L. 91-609, § 602(j)(3), redesignated former cls. (4) and (5) as (5) and (6).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb-8 of this title.

§ 1749bbb-14. Records, annual statement, and audits

(a) Information reports for Secretary

Any insurer, pool, or property owner acquiring reinsurance or direct insurance under this subchapter shall furnish the Secretary with such summaries and analyses of information in its records as may be necessary to carry out the purposes of this subchapter, in such form as the Secretary, in cooperation with the State insurance authority, shall, by rules and regulations, prescribe. The Secretary shall make use of State insurance authority examination reports and facilities to the maximum extent feasible.

(b) Filing of annual statement

Any insurer or pool acquiring reinsurance under this subchapter shall file with the Secretary a true and correct copy of any annual statement, or amendment thereof, filed with the State insurance authority of its domiciliary State, at the time it files such statement or amendment with such State insurance authority.

(c) Record keeping requirements

Any insurer or other person executing any contract, agreement, or other appropriate arrangement with the Secretary under section 1749bbb-8 or 1749bbb-12 of this title shall keep reasonable records which fully disclose the total costs of the programs undertaken or the services being rendered, and such other records as will facilitate an effective audit of liability for reinsurance or direct insurance payments by the Secretary.

(d) Investigation and audit

The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of any insurer or other person that are pertinent to the costs of any program undertaken for, or services rendered to, the Secretary. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities.

(June 27, 1934, ch. 847, title XII, § 1244, formerly § 1234, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 565, renumbered and amended Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), (f), (k), (*l*), 84 Stat. 1789-1791.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-609, § 602(k), required property owners acquiring insurance to furnish necessary information and made the requirement applicable when acquiring direct insurance.

Subsec. (c). Pub. L. 91-609, § 602(f), (*l*), renumbered section 1232 to be 1242 of act June 27, 1934, without affecting its designation in the text as section 1749bbb-12, and provided for audit of liability for direct insurance payments, respectively.

§ 1749bbb-15. Study of reinsurance and other programs; report to the President and Congress

(a) The Secretary is authorized and directed to conduct a study of reinsurance and other means to help assure—

(1) an adequate market for burglary and theft and other property insurance in urban areas; and

(2) adequate availability of surety bonds for construction contractors in urban areas.

(b) The Secretary shall submit the results of this study, together with appropriate recommendations, to the President and Congress no later than June 30, 1970.

(June 27, 1934, ch. 847, title XII, § 1245, formerly § 1235, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 565, amended Dec. 24, 1969, Pub. L. 91-152, title IV, § 407, 83 Stat. 396, and renumbered Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1789.)

AMENDMENTS

1969—Subsec. (b). Pub. L. 91-152 substituted "June 30, 1970" for "one year following August 1, 1968".

§ 1749bbb-16. Other studies; cooperation with State insurance authorities and private insurance industry

(a) The Secretary is authorized to undertake such studies as may be necessary to carry out the purposes of this subchapter including, but not limited to, inquiries concerning—

(1) the operation of plans under part A;

(2) the extent to which essential property insurance is unavailable in urban areas;

(3) the market for private reinsurance; and

(4) loss prevention methods and procedures, insurance marketing methods, and underwriting techniques.

(b) To such extent and under such circumstances as may be practicable and feasible, the Secretary shall conduct any study authorized under this section in cooperation with State insurance authorities and the private insurance industry.

(June 27, 1934, ch. 847, title XII, § 1246, formerly § 1236, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 565, and renumbered Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1789.)

§ 1749bbb-17. General powers of Secretary

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, the Secretary shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties (including the authority to issue rules and regulations) set forth in section 1749a, except subsections (c)(2), (d), and (f), of this title. Any rules or regulations of the Secretary shall only be issued after full consultation with the Board and after notice and hearing, if granted, as required by subchapter II of chapter 5, and chapter 7, of title 5.

(June 27, 1934, ch. 847, title XII, § 1247, formerly § 1237, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 566, and renumbered Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1789.)

CODIFICATION

"Subchapter II of chapter 5, and chapter 7, of title 5" was substituted for "the Administrative Procedure Act" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, the first section of which enacted Title 5, Government Organization and Employees.

§ 1749bbb-18. Utilization of services and facilities of other agencies

The Secretary may, with the consent of the agency concerned, accept and utilize, on a reimbursable basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, except that any such agency having custody of any data relating to any of the matters within the jurisdiction of the Secretary shall, to the extent permitted by law, upon request of the Secretary, makes such data available to the Secretary.

(June 27, 1934, ch. 847, title XII, § 1248, formerly § 1238, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 566, and renumbered Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1789.)

§ 1749bbb-19. Advance payments

Any payments which are made under the authority of this subchapter may be made, after necessary adjustments on account of previously made underpayments or overpayments in advance or by way of reimbursement. Payments may be made in such installments and on such conditions as the Secretary may determine.

(June 27, 1934, ch. 847, title XII, § 1249, formerly § 1239, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 566, and renumbered Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1789.)

§ 1749bbb-20. Taxation

(a) The National Insurance Development Fund, including its reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, or any subdivision thereof, except that any real property acquired by the Secretary as a result of reinsurance shall be subject to taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(b) Any measures undertaken by any State to meet or to fund its obligations under section 1749bbb-9(a)(1) of this title shall not be the subject of any retaliatory or fiscal imposition by any other State.

(June 27, 1934, ch. 847, title XII, § 1250, formerly § 1240, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 566, renumbered Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1789.)

§ 1749bbb-21. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(June 27, 1934, ch. 847, title XII, § 1251, formerly § 1241, as added Aug. 1, 1968, Pub. L. 90-448, title XI, § 1103, 82 Stat. 566, and renumbered Dec. 31, 1970, Pub. L. 91-609, title VI, § 602(d), 84 Stat. 1789.)

SUBCHAPTER X—NATIONAL DEFENSE HOUSING INSURANCE

EXPIRATION DATE

Insurance of mortgages under this subchapter prohibited, with certain exceptions, after July 31, 1954, see section 1591c of Title 42, The Public Health and Welfare.

SUBCHAPTER REFERRED TO IN OTHER SECTION

This subchapter is referred to in sections 1430, 1702, 1715f, 1731a, 1743 of this title; title 10 section 2678; title 42 sections 1591a, 1591c.

§ 1750. Definitions

As used in this subchapter, the terms "mortgage", "first mortgage", "mortgagee", "mortgagor", "maturity date", and "State" shall have the same meaning as in section 1707 of this title.

(June 27, 1934, ch. 847, title IX, § 901, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 295.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1750g of this title.

§ 1750a. Repealed. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title IX, § 902, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 296, created the National Defense Housing Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1750a–1. Omitted

CODIFICATION

Section, act Nov. 1, 1951, ch. 665, title VI, § 501, 65 Stat. 763, authorized the National Defense Housing Insurance Fund to be available for administrative expenses of the Federal Housing Administration. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507, eliminated the Fund, and all functions, powers, and duties of the Federal Housing Administration and its Administrator were transferred to and vested in the Secretary of Housing and Urban Development by Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of Title 42, The Public Health and Welfare. Act June 27, 1934, ch. 847, title V, § 519, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 214, 79 Stat. 471, classified to section 1735c of this title, created the General Insurance Fund, which authorized the general expenses of the operations of the Department of Housing and Urban Development relating to mortgages and loans which are obligations of the General Insurance Fund to be charged to the General Insurance Fund.

§ 1750b. Insurance in critical areas

(a) Limitations; termination of certain commitments; requirements; discrimination against children

This subchapter is designed to supplement systems of mortgage insurance under other provisions of this chapter in order to assist in providing adequate housing in areas which the President, pursuant to section 1591 of title 42, shall have determined to be critical defense housing areas. The Secretary is authorized, upon application by the mortgagee, to insure under this section or section 1750g of this title as hereinafter provided any mortgage which is eligible for insurance as hereinafter provided and upon such terms as the Secretary may prescribe to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon: *Provided,* That the property covered by the mortgage is in an area which the President, pursuant to section 1591 of title 42, shall have determined to be a critical defense housing area, and that the total number of dwelling units in properties covered by mortgages insured under this subchapter in any such area does not exceed the number authorized by the Secretary of Housing and Urban Development from time to time as needed in such area for defense purposes and to be insured pursuant to this subchapter: *Provided further,* That in the event the Secretary has issued a commitment to insure a mortgage under this section, which commitment was in force and effect on June 1, 1953, and the Secretary determines that, because of changes in defense requirements, there is reasonable doubt that such housing is needed for defense purposes and that it is probable that the mortgage would become immediately in default and claim made for payment under the mortgage insurance contract if the unit or units are completed and the mortgage insured, the Secretary is authorized, in the interest of conserving the General Insurance Fund, to pay (in cash from the General Insurance Fund) to the mortgagee for the account of the mortgagor such amount as the Secretary shall determine to be necessary to reimburse the mortgagor the amounts paid or to be paid by the mortgagor on account of labor performed and materials in place, less the Secretary's estimate of the reasonable salvage value of such materials, plus an allowance for development costs equal to 4 per centum of the principal amount of the mortgage specified in such commitment, and no payments shall be made pursuant to this proviso unless a claim therefor is filed not later than six months from date of the determination of lack of need and the claim is in such form and contains such supporting information, documents, and data as the Secretary may require: *Provided further,* That the aggregate amount of principal obligations of all mortgages insured under this subchapter shall not exceed such sum as may be authorized by the President from time to time for the purposes of this subchapter pursuant to his authority under section 1715h of this title: *Provided further,* That the Secretary shall have power to require properties covered by mortgages insured under this subchapter to be held for rental for such periods of time and at such rentals or other charges as he may prescribe; and, with respect to such properties being held for rental, (1) to require that the property be held by a mortgagor approved by him, and (2) to prescribe such requirements as he deems to be reasonable governing the method of operation and prohibiting or restricting sales of such properties or interests therein or agreements relating to such sales: *Provided further,* That the Secretary shall require each dwelling covered by a mortgage insured under this section, for which a commitment to insure is issued after August 2, 1954, to be held for rental for a period of not less than three years after the dwelling is made available for initial occupancy: *And provided further,* That no mort-

gage shall be insured under this subchapter unless the mortgagor certifies under oath that in selecting tenants for any property covered by the mortgage he will not discriminate against any family by reason of the fact that there are children in the family, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certification to be filed with the Secretary. Violation of any such certification shall be a misdemeanor punishable by a fine of not to exceed $500.

(b) Eligibility requirements

To be eligible for insurance under this section a mortgage shall—

(1) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(2) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed 90 per centum of the appraised value (as of the date the mortgage is accepted for insurance) of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for residential use for not more than two families in the aggregate, which is approved for mortgage insurance prior to the beginning of construction, the construction of which is begun after September 1, 1951. The principal obligation of such mortgage shall not, however, exceed $8,100 if such dwelling is designed for a single-family residence, or $15,000 if such dwelling is designed for a two-family residence except that the Secretary may by regulation increase these amounts to not to exceed $9,000 and $16,000, respectively, in any geographical area where he finds that cost levels so require: *Provided*, That if the Secretary finds that it is not feasible within the aforesaid dollar amount limitations to construct dwellings containing three or four bedrooms per family unit without sacrifice of sound standards of construction, design, and livability, he may increase such dollar amount limitations by not exceeding $1,080 for each additional bedroom (as defined by the Secretary) in excess of two contained in such family unit if he finds that such unit meets sound standards of livability as a three-bedroom or a four-bedroom unit as the case may be;

(3) have a maturity satisfactory to the Secretary but not to exceed thirty years from the date of the insurance of the mortgage;

(4) contain complete amortization provisions satisfactory to the Secretary;

(5) bear interest (exclusive of premium charges for insurance) at not to exceed 4½ per centum per annum on the amount of the principal obligation outstanding at any time;

(6) provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as herein provided) to amortization of the principal of the mortgage; and

(7) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

(c) Premium charges; payments; needs of national defense as prerequisite; adjustments and refunds

The Secretary is authorized to fix a premium charge for the insurance of mortgages under this subchapter but in the case of any mortgage such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1½ per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the mortgagee, either in cash or in debentures issued by the Secretary under this subchapter at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided*, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this subchapter, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe; but no mortgage shall be accepted for insurance under this subchapter unless the Secretary finds that the project with respect to which the mortgage is executed is an acceptable risk in view of the needs of national defense. In the event that the principal obligation of any mortgage accepted for insurance under this subchapter is paid in full prior to the maturity date, the Secretary is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage has continued to be insured under this subchapter until such maturity date; and in the event that the principal obligation is paid in full as herein set forth the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid. Upon application of the mortgagee with the consent of the mortgagor of a mortgage for which a commitment to insure has been issued pursuant to section 1709 of this title covering property on which the construction of the dwellings thereon was begun prior to the enactment of this subchapter and the determination of prevailing wages in the locality in accordance with section 1715c of this title, the Secretary is authorized, notwithstanding such beginning of construction, to convert such commitment to a commitment under section 1750g of this title; any charges or fees paid to the Secretary with respect to such insurance under section 1709 of this title shall be credited to charges or fees due the Secretary with respect to such insur-

ance under section 1750g of this title; and the determination of prevailing wages in the locality for purposes of section 1715c of this title may be made by the Secretary of Labor at any time prior to the insurance under section 1750g of this title: *Provided,* That such mortgage, or the mortgage covering the same property executed in substitution therefor, is otherwise eligible for insurance under section 1750g of this title.

(d) Preference or priority in purchasing or renting properties

Notwithstanding any other provisions of this chapter or any other Act, except provisions of law enacted hereafter expressly referring to this subsection (d), the Secretary is further authorized to prescribe such procedures as are necessary to secure to persons engaged or to be engaged in national defense activities preference or priority of opportunity to purchase or rent properties, or interests therein, covered by mortgages insured under this subchapter.

(e) Conclusiveness of insurance contract as to eligibility

Any contract of insurance heretofore or hereafter executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(June 27, 1934, ch. 847, title IX, § 903, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 296, and amended July 14, 1952, ch. 723, § 13, 66 Stat. 604; June 30, 1953, ch. 170, § 11, 67 Stat. 124; Aug. 2, 1954, ch. 649, title I, § 128(b), 68 Stat. 609; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(x), 79 Stat. 507; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (4), (s), (t), 81 Stat. 17, 19.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b)(1) to (4), (6), (7), and (c) to (e) of this section.

Subsec. (a). Pub. L. 90-19, § 1(a)(4), (s), substituted "Secretary's" and "Secretary of Housing and Home Development" for "Commissioner's" and "Housing and Home Finance Administrator", respectively.

Subsec. (d). Pub. L. 90-19, § 1(t), struck out ", with the approval of the Housing and Home Finance Administrator," preceding "is further authorized".

1965—Subsec. (a). Pub. L. 89-117 substituted "General Insurance Fund" for "National Defense Housing Insurance Fund".

1954—Subsec. (a). Act Aug. 2, 1954, inserted the proviso relating to the requirement for rental for a period of not less than three years after the dwelling is made available for initial occupancy.

1953—Subsec. (a). Act June 30, 1953, inserted the proviso commencing *"Provided further,* That in the event".

1952—Subsec. (c). Act July 14, 1952, added last sentence.

CROSS REFERENCES

Misdemeanor as offense punishable by imprisonment for term not exceeding one year, see section 1 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715q, 1750c, 1750g of this title.

§ 1750c. Mortgage insurance benefits

(a) Conveyance and assignment by mortgagee after foreclosure; debentures and certificates of claim; cost of foreclosure

In any case in which the mortgagee under a mortgage insured under section 1750b of this title shall have foreclosed and taken possession of the mortgaged property, in accordance with regulations of, and within a period to be determined by, the Secretary, or shall, with the consent of the Secretary, have otherwise acquired such property from the mortgagor after default, the mortgagee shall be entitled to receive the benefit of the insurance as hereinafter provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of rules and regulations of the Secretary in force at the time the mortgage was insured, and which is evidenced in the manner prescribed by such rules and regulations; and (2) the assignment to him of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary. Upon such conveyance and assignment the obligation of the mortgagee to pay the premium charges for insurance shall cease and the Secretary shall, subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value equal to the value of the mortgage and a certificate of claim, as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined, in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after default other than by foreclosure, the amount of all payments which have been made by the mortgagee for taxes, ground rents, and water rates, which are liens prior to the mortgage, special assessments which are noted on the application for insurance or which become liens after the insurance of the mortgage, insurance of the mortgaged property, and any mortgage insurance premiums and by deducting from such total amount any amount received on account of the mortgage after either of such dates and any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates: *Provided,* That with respect to mortgages which are foreclosed before there shall have been paid on account of the principal obligation of the mortgage a sum equal to 10 per centum of the appraised value of the property as of the date the mortgage was accepted for insurance, there may be included in the debentures issued by the Secretary, on ac-

count of the cost of foreclosure (or of acquiring the property by other means) actually paid by the mortgagee and approved by the Secretary an amount—

(1) not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings and not in excess of $75; or

(2) not in excess of two-thirds of such cost, whichever is the greater: *Provided further,* That with respect to any debentures issued on or after September 2, 1964, the Secretary may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e) of this section), include in debentures, in addition to amounts otherwise allowed for such costs, an amount not to exceed one-third of the total foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Secretary, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee: *And provided further,* That with respect to mortgages to which the provisions of sections 532 and 536 of the Appendix to title 50, apply and which are insured under section 1750b of this title, and subject to such regulations and conditions as the Secretary may prescribe, there shall be included in the debentures an amount which the Secretary finds to be sufficient to compensate the mortgagee for any loss which it may have sustained on account of interest on debentures and the payment of insurance premiums by reason of its having postponed the institution of foreclosure proceedings or the acquisition of the property by other means during any part or all of the period of such military service and three months thereafter.

(b) Consent to release of mortgagee or property

The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(c) Debentures; form and denomination

Debentures issued under this subchapter shall be in such form and denominations in multiples of $50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the amount of debentures to which the mortgagee is entitled under this section or section 1750g of this title and the aggregate face value of the debentures issued, not to exceed $350, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the General Insurance Fund.

(d) Debentures; execution; negotiability; terms; tax exemptions

The debentures issued under this section to any mortgagee shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable. All such debentures shall be dated as of the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default, except that debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Secretary, in his discretion, may establish by regulation. The debentures shall bear interest from such date at a rate determined by the Secretary, with the approval of the Secretary of the Treasury, at the time the mortgage was accepted for insurance, but not to exceed 3 per centum per annum, payable semiannually on the 1st day of January and the 1st day of July of each year. Such debentures shall mature twenty years after the date thereof. Such debentures shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, or gift taxes) now or hereafter imposed by any Territory, dependency, or possession of the United States, or by the District of Columbia, or by any State, county, municipality, or local taxing authority, and shall be paid out of the General Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and such guaranty shall be expressed on the face of the debentures. In the event that the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this subchapter, the Secretary of the Treasury shall pay to the holders the amount thereof which is auhorized[1] to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(e) Certificate of claim; division of excess proceeds

The certificate of claim issued by the Secretary to any mortgagee under this section shall be for an amount determined in accordance with, and shall contain provisions and shall be paid in accordance with, the provisions of section 1710(e) and section 1710(f) of this title.

(f) Handling and disposal of property; settlement of claims

Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary shall have power to deal with, complete, rent, renovate, modernize, insure, make contracts or establish suitable agencies for the management of, or sell for cash or credit, in his discretion, any properties conveyed to him in exchange for debentures and certificates of claim as provided in this section; and, notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary as provided in this subchapter: *Provided,* That section 5 of title 41 shall not be construed to apply to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000. The power to convey and to

[1] So in original. Probably should read "authorized".

execute in the name of the Secretary deeds of conveyances, deeds of release, assignments, and satisfactions of mortgages, and any other written instrument relating to real property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this chapter, may be exercised by an officer appointed by him, without the execution of any express delegation of power or power of attorney: *Provided*, That nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney in his discretion, to any officer, agent, or employee he may appoint.

(g) Mortgagor's or mortgagee's interest in property or claim conveyed

No mortgagee or mortgagor shall have, and no certification of claim shall be construed to give to any mortgagee or mortgagor, any right or interest in any property conveyed to the Secretary or in any claim assigned to him; nor shall the Secretary owe any duty to any mortgagee or mortgagor with respect to the handling or disposal of any such property or the collection of any such claim.

(June 27, 1934, ch. 847, title IX, § 904, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 298, and amended Aug. 2, 1954, ch. 649, title I, § 112(d), 68 Stat. 593; Sept. 2, 1964, Pub. L. 88-560, title I, § 105(e), (f), 78 Stat. 773, 774; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(y), 79 Stat. 507; May 25, 1967, Pub. L. 90-19, § 1(a)(3), (d), 81 Stat. 17, 18.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (a)(2), and (b) to (g) of this section.

Subsec. (f). Pub. L. 90-19, § 1(d), substituted "an officer" for "the Commissioner or by any Assistant Commissioner".

1965—Subsecs. (c), (d). Pub. L. 89-117, § 1108(y)(1), substituted "General Insurance Fund" for "National Defense Housing Insurance Fund".

Subsec. (e). Pub. L. 89-117, § 1108(y)(2), removed the limitation which had rendered applicable to certificates of claim only those provisions of sections 1710(e) and 1710(f) of this title which were applicable to mortgages insured under section 1713 of this title and struck out provision that reference in section 1710(f) of this title to the "Housing Insurance Fund" shall be deemed for the purpose of this section to be reference to the "National Defense Housing Insurance Fund".

1964—Subsec. (a). Pub. L. 88-560, § 105(e)(1), (f), inserted the proviso reading "Provided further, That with respect to any debentures issued on or after September 2, 1964, the Commissioner may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e)), include in debentures, in addition to amounts otherwise allowed for such costs, an amount not to exceed one-third of the total foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee:" and deleted from the third sentence "paid after either of such dates" following "mortgage insurance premiums", respectively.

Subsec. (c). Pub. L. 88-560, § 105(e)(2), increased the limitation on the difference between the amount of debentures to which the mortgagee is entitled under this section or section 1750g of this title and the aggregate face value of the debentures issued from $50 to $350.

Subsec. (d). Pub. L. 88-560, § 105(e)(3), substituted in the second sentence "default, except that debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Commissioner, in his discretion, may establish by regulation. The debentures" for "default, and".

1954—Subsec. (d). Act Aug. 2, 1954, in third sentence, substituted a twenty-year period for the ten-year period, with respect to the maturity of debentures.

RETROACTIVE EFFECT OF 1954 AMENDMENT

Amendment to subsec. (d) of this section by act Aug. 2, 1954, as not applicable in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to Aug. 2, 1954, see note under section 1710 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1710, 1750g of this title.

§ 1750d. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title IX, § 905, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 301, provided for the management of the National Defense Housing Insurance Fund, the issue and cancellation of debentures, and the receipt and payment of charges and fees.

§ 1750e. Taxation

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Secretary under this subchapter from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title IX, § 906, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 301, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

§ 1750f. Rules and regulations

The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this subchapter.

(June 27, 1934, ch. 847, title IX, § 907, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 301, and amended May 25, 1967, Pub. L. 90-19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

§ 1750g. Insurance of additional mortgages

(a) Authorization

In addition to mortgages insured under section 1750b of this title, the Secretary is authorized to insure mortgages as defined in section 1750 of this title (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided.

(b) Eligibility requirements; release of part of property

To be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall be held by a mortgagor approved by the Secretary. The Secretary may, in his discretion, require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation. The Secretary may make such contracts with, and acquire for not to exceed $100 stock or interest in any such mortgagor, as the Secretary may deem necessary to render effective such restriction or regulation. Such stock or interest shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount—

(A) not to exceed $5,000,000; and

(B) not to exceed 90 per centum of the amount which the Secretary estimates will be the value of the property or project when the proposed improvements are completed: *Provided,* That such mortgage shall not in any event exceed the amount which the Secretary estimates will be the cost of the completed physical improvements on the property or project exclusive of off-site public utilities and streets and organization and legal expenses; and

(C) not to exceed $8,100 per family unit (or $7,200 per family unit if the number of rooms in such property or project does not equal or exceed four per family unit) for such part of such property or project as may be attributable to dwelling use: *Provided,* That the Secretary may by regulation increase such dollar amount limitations by not exceeding $900 in any geographical area where he finds that cost levels so require.

(3) The mortgagor shall enter into the agreement required by section 1715r of this title.

The mortgage shall provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4½ per centum per annum on the amount of the principal obligation outstanding at any time. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release.

(c) Default; debentures; cash adjustment; certificate of claim

The mortgagee shall be entitled to receive debentures in connection with mortgages insured under this section in the amount and under the conditions specified in subsection (g) of section 1713 of this title, and the references in said subsection (g) to the cash adjustment provided for in subsection (j) of section 1713 and to the certificate of claim provided for in subsection (h) of section 1713 shall be deemed to refer respectively to the cash adjustment provided for in subsection (c) of section 1750c of this title and to the certificate of claim provided for in subsection (d) of this section.

(d) Certificate of claim; contents and payment

The certificate of claim issued by the Secretary to any mortgagee under this section shall be for an amount determined in accordance with, and shall contain provisions and shall be paid in accordance with, the provisions of section 1713(h) of this title.

(e) Debentures; issuance and payment in accordance with section 1750c(c), (d) of this title

Debentures issued under this section shall be issued in accordance with the provisions of section 1750c(c) and (d) of this title except that such debentures shall be dated as of the date of default as determined in subsection (c) of this section, and shall bear interest from such date.

(f) Applicability of section 1713(k), (*l*) of this title

The provisions of section 1713(k) and (*l*) of this title shall be applicable to mortgages insured under this section and to property acquired by the Secretary hereunder, except that, as applied to such mortgages and property, the reference therein to subsection (g) shall be construed to refer to subsection (c) of this section.

(g) Applications under section 1743; credit for fees upon reapplication under this section

In any case where an application for insurance under section 1743 of this title was received by the Secretary of Housing and Urban Development on or before March 1, 1950, and has not been rejected or committed upon, the mortgagee upon reapplication for insurance of a mortgage under this section with respect to the same property shall receive credit for any application fees paid in connection with the prior application: *Provided,* That this subsection shall not constitute a waiver of any requirements otherwise applicable to the insurance of mortgages under this section.

(h) Preferences

The Secretary shall grant preference to applications for insurance under this subchapter to mortgages covering housing of lower rents.

(June 27, 1934, ch. 847, title IX, § 908, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 301, and amended June 30, 1953, ch. 170, § 10, (c), 67 Stat. 124; Aug. 2, 1954, ch. 649, title I, § 130, 68 Stat. 609; Aug. 10, 1965, Pub. L. 89-117, title XI, § 1108(z), 79 Stat. 507; May 25, 1967, Pub. L. 90-19, § 1(a)(2), (3), 81 Stat. 17.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b)(1), (2)(B), (C), last par. following (C), (d), (f), and (h) of this section.

Subsec. (g). Pub. L. 90-19, § 1(a)(2), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1965—Subsec. (b)(1). Pub. L. 89-117, § 1108(z)(1), substituted "General Insurance Fund" for "National Defense Housing Insurance Fund".

Subsec. (d). Pub. L. 89-117, § 1108(z)(2), struck out provision that reference in section 1713(h) of this title

to "the Housing Insurance Fund" shall be deemed for the purposes of this section to be a reference to the National Defense Housing Insurance Fund.

Subsec. (f). Pub. L. 89-117, § 1108(z)(3), struck out provision that references in subsections (k) and (*l*) of section 1713 of this title "Housing Fund" shall be construed to refer to the "National Defense Housing Insurance Fund".

1954—Subsec. (b)(3). Act Aug. 2, 1954, substituted the requirement that the mortgagor shall enter into the agreement required by section 1715r of this title for former provisions relating to certification of builders' costs, such certifications now being prescribed in said section 1715r.

1953—Subsec. (b). Act June 30, 1953, in paragraph commencing "The mortgage shall provide", substituted "4½ per centum" for "4 per centum".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1731b, 1750b, 1750c of this title.

SUBCHAPTER XI—VOLUNTARY HOME MORTGAGE CREDIT

CODIFICATION

This subchapter was enacted as a part of the Housing Act of 1954, and not as a part of the National Housing Act which comprises this chapter.

§§ 1750aa to 1750jj. Omitted

CODIFICATION

Section 1750aa, act Aug. 2, 1954, ch. 649, title VI, § 601, 68 Stat. 637, contained a declaration of policy for voluntary home mortgage credit.

Section 1750bb, acts Aug. 2, 1954, ch. 649, title VI, § 602, 68 Stat. 637; Sept. 2, 1958, Pub. L. 85-857, § 13(s)(1), 72 Stat. 1266, defined the terms "Insured or guaranteed mortgage loan", "Private financing institutions", "Administrator", and "State".

Section 1750cc, acts Aug. 2, 1954, ch. 649, title VI, § 603, 68 Stat. 637; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640, provided for the establishment and composition of the National Voluntary Mortgage Credit Extension Committee.

Section 1750dd, act Aug. 2, 1954, ch. 649, title VI, § 604, 68 Stat. 638, provided for the establishment, composition, and organization of regional subcommittees of the National Voluntary Mortgage Credit Extension Committee.

Section 1750ee, act Aug. 2, 1954, ch. 649, title VI, § 605, 68 Stat. 638, set forth the general functions of the National Committee and the regional subcommittees.

Section 1750ff, act Aug. 2, 1954, ch. 649, title VI, § 606, 68 Stat. 638, authorized the National Committee to study and review the demand and supply of funds for residential mortgage loans, to receive reports from and correlate the activities of the regional subcommittees to report periodically to the Commissioner of the Federal Housing Administration and the Administrator of Veterans' Affairs, to maintain liaison with State and local government housing officials, and to submit reports to Congress.

Section 1750gg, acts Aug. 2, 1954, ch. 649, title VI, § 607, 68 Stat. 639; Sept. 2, 1958. Pub. L. 85-857, § 13(s)(1), 72 Stat. 1266, set forth the functions, powers, and duties of the regional subcommittees.

Section 1750hh, act Aug. 2, 1954, ch. 649, title VI, § 608, 68 Stat. 640, authorized the Administrator, after consultation with the National Committee, to issue general rules and procedures for the implementation of this subchapter and the functioning of the regional subcommittees.

Section 1750ii, act Aug. 2, 1954, ch. 649 title VI, § 609, 68 Stat. 640, exempted laws promulgated pursuant to this subchapter from the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States, provided for the status of members of the National Committee or any of the regional subcommittees, and provided for an office, staff assistance and expenses of the members.

Section 1750jj, acts Aug. 2, 1954, ch. 649, title VI, § 610, 68 Stat. 640; June 29, 1957, Pub. L. 85-66, 71 Stat. 209; July 12, 1957, Pub. L. 85-104, title VI, § 602, 71 Stat. 304; July 31, 1959, Pub. L. 86-119, 73 Stat. 266; Sept. 23, 1959, Pub. L. 86-372, title VIII, § 806, 73 Stat. 687; June 30, 1961, Pub. L. 87-70, title IX, § 903, 75 Stat. 191, provided that, unless Congress authorized for an earlier termination, this subchapter and all authority conferred hereunder was to terminate at the close of Oct. 1, 1965.

CHAPTER 14—FEDERAL CREDIT UNIONS

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2804 of this title; title 15 sections 1607, 1681s, 1691c; title 18 section 709.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 26–521, 35–710 of the District of Columbia Code.

§ 1751. Short title

This chapter may be cited as the "Federal Credit Union Act."

(June 26, 1934, ch. 750, § 1, 48 Stat. 1216; Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 628.)

AMENDMENTS

1959—Pub. L. 86-354 reenacted section without change.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof to the Bureau of Farm Credit Unions and the Director thereof under the jurisdiction of the Federal Security Agency by act June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091, and abolishment of the Agency and transfer of its functions to the Department of Health, Education, and Welfare by Reorg. Plan No. 1 of 1953, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 632, see section 1752a of this title, and notes thereunder.

The functions of the Farm Credit Administration and the Governor thereof under this chapter, together with the functions of the Secretary of Agriculture with respect thereto, were transferred to the Federal Deposit Insurance Corporation by Reorg. Plan No. 1 of 1947, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952, set out in the Appendix to Title 5, Government Organization and Employees. A similar transfer of functions for the duration of World War II was effected by Ex. Ord. No. 9148, Apr. 27, 1942, 7 F.R. 3145.

The Farm Credit Administration was transferred to the Department of Agriculture by Reorg. Plan No. I of 1939, § 401, eff. July 1, 1939, 4 F.R. 2730, 53 Stat. 1429, set out in the Appendix to title 5.

CROSS REFERENCES

Enforcement under this chapter by the Director of the Bureau of Federal Credit Unions of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

§ 1751a. Omitted

CODIFICATION

Section, act June 29, 1948, ch. 711, § 2, 62 Stat. 1091, related to establishment of Bureau of Federal Credit Unions, and is now covered by section 1752a of this title.

SUBCHAPTER I—GENERAL PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1781, 1782 of this title.

§ 1752. Definitions

As used in this chapter—

(1) the term "Federal credit union" means a cooperative association organized in accordance with the provisions of this chapter for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes;

(2) the term "Administrator" means the Administrator of the National Credit Union Administration;

(3) the term "Administration" means the National Credit Union Administration;

(4) the term "Board" means the National Credit Union Board;

(4) [1] The terms "member account" and "account" (when referring to the account of a member of a credit union) mean a share, share certificate, or share deposit account of a member of a credit union of a type approved by the Administrator which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member, and, in the case of a credit union serving predominantly low-income members (as defined by the Administrator), such terms (when referring to the account of a nonmember served by such credit union) mean a share, share certificate, or share deposit account of such nonmember which is of a type approved by the Administrator and evidences money or its equivalent received or held by such credit union in the usual course of business and for which it has given or is obligated to give credit to the account of such nonmember;

(5) The terms "State credit union" and "State-chartered credit union" mean a credit union organized and operated according to the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, which laws provide for the organization of credit unions similar in principle and objectives to Federal credit unions;

(6) The term "insured credit union" means any credit union the member accounts of which are insured in accordance with the provisions of subchapter II of this chapter, and the term "noninsured credit union" means any credit union the member accounts of which are not so insured;

(7) The term "Fund" means the National Credit Union Share Insurance Fund; and

(8) The term "branch" includes any branch credit union, branch office, branch agency, additional office, or any branch place of business located in any State of the United States, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, at which member accounts are established or money lent.

(June 26, 1934, ch. 750, title I, § 101, formerly § 2, 48 Stat. 1216; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091; Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 628; Mar. 10, 1970, Pub. L. 91-206, § 1, 84 Stat. 49, renumbered and amended Oct. 19, 1970, Pub. L. 91-468, §§ 1(2), 2, 84 Stat. 994, 1015.)

AMENDMENTS

1970—Par. (2). Pub. L. 91-206 substituting "Administrator" as meaning Administrator of the National Credit Union Administration for "Bureau" as meaning the Bureau of Federal Credit Unions.

Par. (3). Pub. L. 91-206 substituted "Administration" as meaning the National Credit Union Administration for "Director" as meaning Director of the Bureau of Federal Credit Unions.

Par. (4). Pub. L. 91-206 added par. (4).

Pars. (4) to (8). Pub. L. 91-468, § 2, added pars. (4) to (8).

1959—Pub. L. 86-354 designated the terms defined as subsecs. (1) to (3).

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

[1] Definitions of terms "member account" and "account" were added as par. (4) notwithstanding the existence of a par. (4) defining the term "Board".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 2113; title 26 section 401.

§ 1752a. National Credit Union Administration

(a) National Credit Union Board; Administrator

There is hereby established in the executive branch of the Government an independent agency to be known as the National Credit Union Administration (hereinafter referred to as the "Administration"). The Administration shall consist of a National Credit Union Board (hereinafter referred to as the "Board"), and an Administrator of the National Credit Union Administration (hereinafter referred to as the "Administrator").

(b) Administrator; appointment

The Administrator shall be appointed by the President, by and with the advice and consent of the Senate. He shall be the chief executive officer of the Administration and shall serve at the pleasure of the President.

(c) National Credit Union Board; membership; qualifications

The Board shall consist of a Chairman and one member from each of the Federal credit union regions to be appointed by the President, by and with the advice and consent of the Senate. The Chairman shall be appointed from the country at large and shall serve at the pleasure of the President. In making appointments to the Board, the President shall appoint persons of tested credit union experience.

(d) Term of office; Vice-Chairman

The term of office of each member of the Board, other than the Chairman, shall be six years. However, the initial terms of the members first taking office shall expire as follows: one on December 31, 1970, and one at the end of each succeeding calendar year thereafter. Of the members so appointed, the President shall designate one to serve as Vice Chairman for a term expiring upon the expiration of his term as a member, or upon the expiration of the then current term of the Chairman, whichever is earlier. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman. Any member of the Board may continue to serve as such after the expiration of his term of office until his successor has been appointed and has qualified.

(e) Meetings; rules; records; quorum; annual report; compensation

The President shall call the first meeting of the Board, and thereafter the Board shall meet on a quarterly basis, and at such other times as the Chairman or the Administrator may request, or whenever one-third of the members so request. The Board shall adopt such rules as it may see fit for the transaction of its business and shall keep permanent and complete records and minutes of its acts and proceedings. A majority of the voting members of the Board shall constitute a quorum. The Administrator shall seek the advice, counsel, and guidance of the Board with respect to matters of policy relating to the activities and functions of the Administration under this chapter. The Administrator shall make an annual report to the President for submission to the Congress summarizing the activities of the Administration and making such recommendations as he deems appropriate. Such report shall be made after full consultation with the Board and shall contain any recommendations or comments submitted by the Board for inclusion in the report. The members of the Board shall be entitled to receive compensation at the rate of $75 for each day engaged in the business of the Administration pursuant to authorization by the Chairman, and shall be allowed travel expenses including per diem in lieu of subsistence as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(f) Audit by General Accounting Office

The financial transactions of the Administration shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts of the Administration are kept.

(June 26, 1934, ch. 750, title I, § 102, formerly § 3, as added Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 628, amended Mar. 10, 1970, Pub. L. 91-206, § 3, 84 Stat. 49, and renumbered Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1970—Pub. L. 91-206 designated existing provisions as subsec. (a), and in subsec. (a) as so designated, substituted provisions establishing an independent agency known as the National Credit Union Administration and an Administrator of such National Credit Union Administration for provisions establishing a Bureau of Federal Credit Unions under the supervision of a Director, which Director was appointed by, and, under the general direction and supervision of, the Secretary of Health, Education, and Welfare, and added subsecs. (b) to (f).

TRANSFER OF FUNCTIONS

Section 6 of Pub. L. 91-206 provided that:

"(a) All functions, property, records, and personnel of the Bureau of Federal Credit Unions are transferred to the National Credit Union Administration created by this Act [which generally amended this chapter].

"(b) The Director of the Bureau of Federal Credit Unions in office on the date of enactment of this Act [Mar. 10, 1970] shall serve as acting Administrator of the National Credit Union Administration pending the appointment of an Administrator in accordance with section 3 of the Federal Credit Union Act as amended by this Act [this section]."

All functions of the Federal Security Administrator were transferred to the Secretary of Health, Education, and Welfare and all agencies of the Federal Security Agency were transferred to the Department of Health, Education, and Welfare by Reorg. Plan No. 1 of 1953, § 5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 632, set out in the Appendix to Title 5, Government Organization and Employees. The Federal Security Agency and the office of Administrator were abolished by section 8 of said Reorg. Plan No. 1 of 1953.

PRIOR PROVISIONS

Section 2 of act June 29, 1948, ch. 711, 62 Stat. 1091, which was formerly classified to section 1751a of this title, provided for the establishment in the Federal Security Agency of a Bureau of Federal Credit Unions, which were under the supervision of a Director appointed by the Federal Security Administrator. The

Bureau of Federal Credit Unions and the Director thereof were under the general direction and supervision of the Federal Security Administrator. The functions, powers, and duties of the Farm Credit Administration under the Federal Credit Union Act, as amended [this chapter], were exercised by the Bureau of Federal Credit Unions. The functions, powers, and duties of the Governor of the Farm Credit Administration under the Federal Credit Union Act, as amended [this chapter], were exercised by the Director of the Bureau of Federal Credit Unions.

Section 1 of act June 29, 1948 transferred to the Federal Security Agency all functions, powers, and duties of the Farm Credit Administration and of the Governor thereof under the Federal Credit Union Act, as amended [this chapter], together with the functions of the Secretary of Agriculture with respect thereto, which were transferred to the Federal Deposit Insurance Corporation by Reorganization Plan Numbered 1 of 1947, part IV, section 401 [set out in the Appendix to Title 5, Government Organization and Employees].

Section 3 of act June 29, 1948 transferred to the Federal Security Agency, to be used in the administration of the functions, transferred, (a) all property, including office equipment, transferred to the Federal Deposit Insurance Corporation pursuant to Executive Order 9148 of April 27, 1942 [see note under section 1751 of this title], and in use on the effective date of this Act [see section 5 of act June 29, 1948, set out as a note hereunder]; (b) all property, including office equipment, purchased by the Corporation for use exclusively in connection with the administration of the Federal Credit Union Act, as amended [this chapter], the cost of which had been charged to such functions and which were in use on the effective date of this Act; (c) all records and files pertaining exclusively to the supervision of Federal Credit Unions; and (d) all personnel employed primarily in the administration of the Federal Credit Union Act, as amended [this chapter], on the effective date of this Act.

Section 4 of act June 29, 1948 transferred all funds allocated, specifically or otherwise, in the budget of the Federal Deposit Insurance Corporation for the administration of the Federal Credit Union Act, as amended [this chapter], during the fiscal year ending June 30, 1949, which were unexpended on the effective date of this Act [see section 5 of act June 29, 1948, set out as a note hereunder], to the Federal Security Agency for use in the administration of the Federal Credit Union Act, as amended [this chapter]. The Corporation was to be reimbursed for the funds so transferred and for all other funds expended by it prior to the effective date of this Act in the administration of the Federal Credit Union Act, as amended [this chapter], in excess of fees from Federal Credit unions received by the Corporation, by deducting such amounts from the first moneys payable to the Secretary of the Treasury on account of the retirement of the stock of the Federal Deposit Insurance Corporation owned by the United States, and the Corporation was to have a charge on such stock for such amounts.

Section 5 of act June 29, 1948 provided that the Act was to become effective on the thirtieth day following the date of enactment.

FEDERALLY CHARTERED CENTRAL CREDIT UNIONS; REPORT TO CONGRESS

Section 3 of Pub. L. 86-354 authorized the Director of the Bureau of Federal Credit Unions to make a study of the desirability of providing for federally chartered central credit unions and to submit to the Secretary of Health, Education, and Welfare, for transmission to the Congress on or before April 15, 1960, a report of the results thereof and such recommendations for legislation thereon as the Director deemed appropriate.

CROSS REFERENCES

Independence of financial regulatory agencies with respect to submission of views to Congress, see section 250 of this title.

§ 1753. Federal credit union organization

Any seven or more natural persons who desire to form a Federal credit union shall subscribe before some officer competent to administer oaths an organization certificate in duplicate which shall specifically state:

(1) the name of the association;

(2) the location of the proposed Federal credit union and the territory in which it will operate;

(3) the names and addresses of the subscribers to the certificate and the number of shares subscribed by each;

(4) the par value of the shares, which shall be $5 each;

(5) the proposed field of membership, specified in detail;

(6) the term of the existence of the corporation, which may be perpetual; and

(7) the fact that the certificate is made to enable such persons to avail themselves of the advantages of this chapter.

Such organization certificate may also contain any provisions approved by the Administrator for the management of the business of the association and for the conduct of its affairs and relative to the powers of its directors, officers, or stockholders.

(June 26, 1934, ch. 750, title I, § 103, formerly § 3, 48 Stat. 1217; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091, renumbered § 4, and amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 628; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, renumbered title I, § 103, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director".

1959—Pub. L. 86-354 changed "The" to "the" in subsecs. (1) to (7) and the period to a semicolon in subsecs. (1) to (6) and added "and" at the end of subsec. (6).

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Governor" by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

CROSS REFERENCES

National Labor Relations Act not violated by employer's provision of facilities for operations of Federal Credit Union, see section 158a of Title 29, Labor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1773 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 26-519 of the District of Columbia Code.

§ 1754. Approval of organization certificate

The organization certificate shall be presented to the Administrator for approval. Before any organization certificate is approved, an appropriate investigation shall be made for the

purpose of determining (1) whether the organization certificate conforms to the provisions of this chapter; (2) the general character and fitness of the subscribers thereto; and (3) the economic advisability of establishing the proposed Federal credit union. Upon approval of such organization certificate by the Administrator it shall be the charter of the corporation, and one of the originals thereof shall be delivered to the corporation after the payment of the fee required therefor. Upon such approval the Federal credit union shall be a body corporate and as such, subject to the limitations herein contained, shall be vested with all of the powers and charged with all of the liabilities conferred and imposed by this chapter upon corporations organized hereunder.

(June 26, 1934, ch. 750, title I, § 104, formerly § 4, 48 Stat. 1217; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091, renumbered § 5, and amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 629; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, renumbered title I, § 104, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director" in two instances.

1959—Pub. L. 86-354 changed the introductory words "Any such" to "The" and transferred the second sentence to make it the last sentence.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Governor" by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

§ 1755. Fees

For the purpose of paying the costs incident to the ascertainment of whether an organization certificate should be approved, the subscribers to any such certificate shall pay, at the time of filing their organization certificate, the amount prescribed by the Administrator, which shall not exceed $20 in any case; and on the approval of any organization certificate they shall also pay a fee of $5. Not later than January 31, of each calendar year, each Federal credit union shall pay to the Administration, for the preceding calendar year, a supervision fee in accordance with a graduated scale prescribed by regulation on the basis of assets as of December 31 of such preceding year, but such fee shall in no event be less than $10 nor more than the applicable amount specified in the following table.

Total assets	Maximum fee
$500,000 or less	30 cents per $1,000.
Over $500,000 and not over $1,000,000.	$150, plus 25 cents per $1,000 in excess of $500,000.
Over $1,000,000 and not over $2,000,000.	$275, plus 20 cents per $1,000 in excess of $1,000,000.
Over $2,000,000 and not over $5,000,000.	$475, plus 15 cents per $1,000 in excess of $2,000,000.
Over $5,000,000	$925, plus 10 cents per $1,000 in excess of $5,000,000.

All such fees shall be deposited with the Treasurer of the United States for the account of the Administration and may be expended by the Administrator for such administrative, supervisory, and other expenses incurred in carrying out the provisions of this chapter as he may determine to be proper, the purpose of such fees being to defray such expenses as far as practicable. No annual supervision fee shall be payable by a Federal credit union with respect to the year in which the charter is issued, or in which final distribution is made in its liquidation or the charter is otherwise canceled.

(June 26, 1934, ch. 750, title I, § 105, formerly § 5, 48 Stat. 1217; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091; Apr. 17, 1952, ch. 214, § 1, 66 Stat. 63, renumbered § 6, and amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 629; Mar. 10, 1970, Pub. L. 91-206, § 2(1), (3), 84 Stat. 49, renumbered title I, § 105, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director" and "Administration" for "Bureau", wherever appearing.

1959—Pub. L. 86-354 incorporated in the last sentence the subject matter formerly contained in a proviso clause following the table and authorized the fees to be expended for supervisory expenses.

1952—Act Apr. 17, 1952, amended section, substituting a graduated scale of supervisory fees for the $10 a year supervisory fee.

EFFECTIVE DATE OF 1952 AMENDMENT

Section 2 of act Apr. 17, 1952, provided that the amendment by section 1 of the act shall apply to supervision fees payable with respect to the calendar year 1952 and subsequent calendar years.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Governor" and for "Administration", and "he", referring to such Governor, was changed to "it", by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1756, 1766, 1772a of this title.

§ 1756. Reports and examinations

Federal credit unions shall be under the supervision of the Administrator, and shall make financial reports to him as and when he may require, but at least annually. Each Federal credit union shall be subject to examination by, and for this purpose shall make its books and records accessible to, any person designated by the Administrator. The Administrator shall fix a scale of examination fees to be paid by Federal credit unions, giving due consideration to the time and expense incident to such examinations, and to the ability of Federal credit unions to pay such fees, which fees shall be assessed against and paid by each Federal credit

union promptly after the completion of such examination. Examination fees collected under the provisions of this section shall be deposited to the credit of the special fund created by section 1755 of this title, and shall be available for the purposes specified in such section.

(June 26, 1934, ch. 750, title I, § 106, formerly § 6, 48 Stat. 1218; Dec. 6, 1937, ch. 3, § 1, 51 Stat. 4; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091, renumbered § 7, and amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 629; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, renumbered title I, § 106, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director" in three instances.

1959—Pub. L. 86-354 provided for the making of reports to the Director as and when he may require.

1937—Act Dec. 6, 1937, inserted "giving due consideration to the time and expense incident to such examinations, and to the ability of Federal credit unions to pay such fees" and omitted proviso relating to conditions relieving certain unions from payment of examination fee.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Governor" and "he" and "him", referring to such Governor, were changed to "it", by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1766, 1772a of this title.

§ 1756a. Reimbursement of Administration personnel for use of private automobiles for examining, supervising, and servicing credit unions

Officers and employees of the Administration who under proper authorization use privately owned automobiles in the performance of official travel within the corporate limits of their official stations for the purpose of examining, supervising, or servicing Federal credit unions located within said corporate limits, may be reimbursed for such travel at a rate not to exceed 3 cents per mile.

(July 22, 1942, ch. 516, § 1, 56 Stat. 700; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091; Mar. 10, 1970, Pub. L. 91-206, § 2(3), 84 Stat. 49.)

CODIFICATION

Section was not enacted a part of the Federal Credit Union Act, which comprises this chapter.

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administration" for "Bureau".

TRANSFER OF FUNCTIONS

For transfer of functions of Bureau of Federal Credit Unions and the Director thereof under the jurisdiction of the Department of Health, Education and Welfare to the National Credit Union Administration and the Administrator thereof, an independent agency, by Pub. L. 91-206, § 6, see section 1752a of this title and notes thereunder.

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Farm Credit Administration" by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

EXCEPTIONS FROM TRANSFER OF FUNCTIONS

Functions of the Corporations of the Department of Agriculture, the boards of directors and officers of the corporations; the Advisory Board of the Commodity Credit Corporation; and the Farm Credit Administration or any agency, officer or entity of, under, or subject to the supervision of the Administration were excepted from the functions of officers, agencies and employees transferred to the Secretary of Agriculture by Reorg. Plan No. 2 of 1953, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1757. Powers

A Federal credit union shall have succession in its corporate name during its existence and shall have power—

(1) to make contracts;

(2) to sue and be sued;

(3) to adopt and use a common seal and alter the same at pleasure;

(4) to purchase, hold, and dispose of property necessary or incidental to its operations;

(5) to make unsecured loans with maturities not exceeding five years, and secured loans with maturities not exceeding ten years, except that loans made in accordance with section 1703(b) of this title and section 1819 of title 38 may be for the maturities specified therein, to its members for provident or productive purposes upon such terms and conditions as this chapter and its bylaws provide and as the credit committee or a loan officer may approve, at rates of interest not exceeding 1 per centum per month on unpaid balances, inclusive of all charges incident to making the loan; except that no loans to a director or member of the supervisory or credit committee may be made except as authorized under paragraph (6) of this section. No director or member of the supervisory or credit committee shall endorse for borrowers. A borrower may repay his loan, prior to maturity, in whole or in part on any business day. The taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this subsection, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back from the credit union taking or receiving the same, in an action in the nature of an action of debt, the entire amount of interest paid; but such action must be commenced within two years from the time the usurious collection was made. Loans shall be paid or amortized in accordance with rules and regulations prescribed by the Administrator after taking into account the needs or conditions of the borrowers, the amounts and duration of the loans, the interest of the

members and the credit unions, and such other factors as the Administrator deems relevant, but such rules and regulations shall not require payments more frequently than annually;

(6) to make loans to its own directors and to members of its own supervisory credit committee provided that any such loan or aggregate of loans to one director or committee member which exceeds $2,500 plus pledged shares must be approved by the board of directors, and to permit directors and members of its own supervisory or credit committee to act as guarantor or endorser of loans to other members, except that when such a loan standing alone or when added to any outstanding loan or loans of the guarantor exceeds $2,500, approval by the board of directors is required;

(7) to receive from its members or other federally insured credit unions payments on shares, shares certificates, or share deposits, and, in the case of credit unions serving predominantly low-income members (as defined by the Administrator), to receive payments on shares, share certificates, or share deposits from nonmembers and to receive from an officer, employee, or agent of those nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 1787 of this title and in the manner so prescribed payments on shares, share certificates, and share deposits;

(8) to invest its funds (A) in loans exclusively to members; (B) in obligations of the United States of America, or securities fully guaranteed as to principal and interest thereby; (C) in accordance with rules and regulations prescribed by the Administrator, in loans to other credit unions in the total amount not exceeding 25 per centum of its paid-in and unimpaired capital and surplus; (D) in shares or accounts of savings and loan associations or mutual savings banks, the accounts of which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation; (E) in obligations issued by banks for cooperatives, Federal land banks, Federal intermediate credit banks, Federal home loan banks, the Federal Home Loan Bank Board, or any corporation designated in section 846 of title 31 as a wholly owned Government corporation; or in obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or the Government National Mortgage Association, or in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title; or in obligations or other instruments or securities of the Student Loan Marketing Association; (F) in participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more Government agencies to a trust or trusts for which any executive department, agency, or instrumentality of the United States (or the head thereof) has been named to act as trustee; (G) in shares or deposits of any central credit union in which such investments are specifically authorized by the board of directors of the Federal credit union making the investment; and (H) in shares, share certificates, or share deposits of federally insured credit unions;

(9) to make deposits in national banks and in State banks, trust companies, and mutual savings banks operating in accordance with the laws of the State in which the Federal credit union does business, and for Federal credit unions or credit unions authorized by the Department of Defense operating suboffices on American military installations in foreign countries or trust territories of the United States to maintain demand deposit accounts in banks located in those countries or trust territories, subject to such regulations as may be issued by the Administrator and provided such banks are correspondents of banks described in this paragraph;

(10) to borrow, in accordance with such rules and regulations as may be prescribed by the Administrator, from any source, in an aggregate amount not exceeding 50 per centum of its paid-in and unimpaired capital and surplus: *Provided*, That any Federal credit union may discount with or sell to any Federal intermediate credit bank any eligible obligations up to the amount of its paid-in and unimpaired capital;

(11) to levy late charges, in accordance with the bylaws, for failure of members to meet promptly their obligations to the Federal credit union;

(12) to impress and enforce a lien upon the shares and dividends of any member, to the extent of any loan made to him and any dues or charges payable by him;

(13) in accordance with rules and regulations prescribed by the Administrator, to sell to members negotiable checks (including travelers checks) and money orders, and to cash checks and money orders for members, for a fee which does not exceed the direct and indirect costs incident to providing such service;

(14) in accordance with rules and regulations prescribed by the Administrator, to purchase from any liquidating credit union notes made by individual members of the liquidating credit union at such prices as may be agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union, but no purchase may be made under authority of this paragraph if, upon the making of that purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph would exceed 5 per centum of the unimpaired capital and surplus of the credit union; and

(15) to exercise such incidental powers as shall be necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

(June 26, 1934, ch. 750, title I, § 107, formerly § 7, 48 Stat. 1218; Dec. 6, 1937, ch. 3, § 2, 51 Stat. 4; July 31, 1946, ch. 711, § 1, 60 Stat. 744; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091; Oct. 25, 1949, ch. 713, § 1,

63 Stat. 890; May 13, 1952, ch. 264, 66 Stat. 70, renumbered § 8, and amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 630; July 2, 1964, Pub. L. 88-353, § 1, 78 Stat. 269; May 24, 1966, Pub. L. 89-429, § 7, 80 Stat. 167; July 3, 1967, Pub. L. 90-44, §§ 2, 3, 81 Stat. 110, 111; July 5, 1968, Pub. L. 90-375, § 1(1), (2), (3), 82 Stat. 284; Aug. 1, 1968, Pub. L. 90-448, title VIII, § 807(n), 82 Stat. 545; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49; renumbered title I, § 107 and amended Oct. 19, 1970, Pub. L. 91-468, §§ 1(2), 10, 84 Stat. 994, 1017; June 23, 1972. Pub. L. 92-318, title I, § 133(c)(4), 86 Stat. 270; Aug. 22, 1974, Pub. L. 93-383, title VII, § 721, title VIII, § 805(c)(5), 88 Stat. 719, 727; Oct. 28, 1974, Pub. L. 93-495, title I, § 101(d), 88 Stat. 1502; Dec. 31, 1974, Pub. L. 93-569, § 6, 88 Stat. 1866.)

AMENDMENTS

1974—Par. (5). Pub. L. 93-569 added "except that loans made in accordance with section 1703(b) of this title and section 1819 of title 38, may be for the maturities specified therein," after "ten years".

Par. (6). Pub. L. 93-383, § 721(a), substituted provisions relating to approval of loans by the board of directors for provisions requiring annual reports to the Administrator with respect to loans and setting forth conditions for the making of loans.

Par. (7). Pub. L. 93-495 added provisions relating to receipt of payments of shares, etc., from officers, employees, or agents of nonmember units of Federal, State, or local governments and political subdivisions enumerated in section 1787 of this title.

Par. (8)(E). Pub. L. 93-383, § 805(c)(5), added reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title.

Par. (9). Pub. L. 93-383, § 721(b), added provisions relating to Federal credit unions or credit unions authorized by the Department of Defense.

1972—Par. (8)(E). Pub. L. 92-318 authorized investments in obligations or other instruments or securities of the Student Loan Marketing Association.

1970—Pars. (5), (6), (8), (10), (13), (14), Pub. L. 91-206 substituted "Administrator" for "Director" wherever appearing.

Par. (7). Pub. L. 91-468, § 10(1), permitted a Federal credit union to not only receive from members but also from other federally insured credit unions, payments on shares as well as share certificates or share deposits and, in the case of credit unions serving predominantly low-income members, to receive payments on shares, share certificates or share deposits from nonmembers.

Par. (8). Pub. L. 91-468, § 10(2), authorized a Federal credit union to invest in shares, share certificates or share deposits of federally insured credit unions.

1968—Par. (5). Pub. L. 90-375, § 1(1), substituted provisions authorizing federal credit unions to make unsecured loans with maturities not exceeding five years, and secured loans with maturities not exceeding ten years for provisions authorizing federal credit unions to make loans with maturities not exceeding five years.

Par. (8). Pub. L. 90-448 authorized investments in obligations, participations, or other instruments of or issued by, or guaranteed as to principal and interest by, the Government National Mortgage Association.

Pub. L. 90-375, § 1(2), added cl. (G).

Par. (14). Pub. L. 90-375, § 1(3), added par. (14). Former par. (14) redesignated as (15).

Par. (15). Pub. L. 90-375, § 1(3) redesignated former par. (14) as (15).

1967—Par. (5). Pub. L. 90-44, § 2(1), substituted "may be made except as authorized under paragraph (6) of this section" for "shall exceed the amount of his holdings in the Federal Credit Union as represented by shares thereof plus the total unencumbered and unpledged shareholdings in the Federal Credit Union of any member pledged as security for the obligation of such director or committee member".

Par. (6). Pub. L. 90-44, § 2(3), added par. (6). Former par. (6) renumbered (7).

Par. (7). Pub. L. 90-44, § 2(2), renumbered former par. (6) as (7). Former par. (7) renumbered (8).

Par. (8). Pub. L. 90-44, §§ 2(2), (3), renumbered former par. (7) as (8) and authorized in cl. (D) investment of funds in shares or accounts of mutual savings banks, the accounts of which are insured by the Federal Deposit Insurance Corporation. Former par. (8) renumbered (9).

Pars. (9) to (14). Pub. L. 90-44, § 2(2), renumbered former pars. (8) to (13) as (9) to (14), respectively.

1966—Par. (7). Pub. L. 89-429 expanded the list of possible areas of investment of funds by Federal credit unions to include obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association and participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections therefrom, which obligations have been subjected by one or more Government agencies to a trust or trusts for which any executive department, agency, or instrumentality of the United States (or the head thereof) has been named to act as trustee.

1964—Par. (7). Pub. L. 88-353 added cl. (E).

1959—Pub. L. 86-354 made numerous capitalization, punctuation and phraseological changes throughout the text; increased the maturities limits for loans from three to five years, authorized the approval of loans by a loan officer and authorized loans in an amount which shall include the total unencumbered and unpledged shareholdings in the Federal credit union of any member pledged as security for the obligation of the director or committee member, provided for the payment and amortization of loans, redesignated provisions (a) to (d) as (A) to (D) in par. (7), substituted "levy late charges" for "fine members" and inserted "of members" in par. (10), substituted "charges" for "fines" in par. (11), added par. (12); and redesignated former par. (12) as par. (13).

1952—Par. (7)(d). Act May 13, 1952, authorized investment of funds in shares or accounts of any other institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation.

1949—Par. (5). Act Oct. 25, 1949, increased from 2 years to 3 years the limit for maturity of loans.

1946—Par. (5). Act July 31, 1946, added last two sentences to provide for the forfeiture of the entire amount of interest reserved and for the recovery of the entire amount of interest paid for the violation of the interest limitation.

1937—Par. (7). Act Dec. 6, 1937, added cls. (c) and (d).

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 1802 of Title 38, Veterans' Benefits.

Amendment by Pub. L. 93-495 effective on the 30th day beginning after Oct. 28, 1974, see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as a note under section 1716b of this title.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Governor" by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

CROSS REFERENCES

Discounts and loans of Federal intermediate credit banks, see section 1431 of this title.

Enforcement under this chapter by the Director of the Bureau of Federal Credit Unions of requirements imposed under section 1601 et seq. of Title 15, Commerce and Trade, see section 1607 of Title 15.

Shares or accounts of Federal savings and loan associations, see section 1464 of this title.

§ 1758. Bylaws

In order to simplify the organization of Federal credit unions the Administrator shall from time to time cause to be prepared a form of organization certificate and a form of bylaws consistent with this chapter, which shall be used by Federal credit union incorporators, and shall be supplied to them on request. At the time of presenting the organization certificate the incorporators shall also submit proposed bylaws to the Administrator for his approval.

(June 26, 1934, ch. 750, title I, § 108, formerly § 8, 48 Stat. 1219; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091, renumbered § 9, and amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 631; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, renumbered title I, § 108, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director" in two instances.

1959—Pub. L. 86-354 substituted "from time to time" for ", upon the passage of this Act,".

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

Functions of the Governor of the Farm Credit Administration under this section were transferred to the Federal Deposit Insurance Corporation by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

§ 1759. Membership

Federal credit union membership shall consist of the incorporators and such other persons and incorporated and unincorporated organizations, to the extent permitted by rules and regulations prescribed by the Administrator as may be elected to membership and as such shall each, subscribe to at least one share of its stock and pay the initial installment thereon and a uniform entrance fee if required by the board of directors; except that Federal credit union membership shall be limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. Shares may be issued in joint tenancy with right of survivorship with any persons designated by the credit union member, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless he is within the field of membership and is a qualified member.

(June 26, 1934, ch. 750, title I, § 109, formerly § 9, 48 Stat. 1219; July 31, 1946, ch. 711, § 2, 60 Stat. 744; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091, renumbered § 10, amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 631; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, renumbered title I, § 109, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994, and amended Aug. 22, 1974, Pub. L. 93-383, title VII, § 722, 88 Stat. 719.)

AMENDMENTS

1974—Pub. L. 93-383 substituted "a uniform entrance fee if required by the board of directors" for "the entrance fee".

1970—Pub. L. 91-206 substituted "Administrator" for "Director".

1959—Pub. L. 86-354 substituted "persons" for "person" preceding "designated".

1946—Act July 31, 1946, amended section by adding last sentence which permits a Federal credit union to issue shares in joint tenancy with a right of survivorship.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Governor", by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

§ 1760. Members' meetings

The fiscal year of all Federal credit unions shall end December 31. The annual meeting of each Federal credit union shall be held at such time during the following January, February, or March and at such place as its bylaws shall prescribe. Special meetings may be held in the manner indicated in the bylaws. No member shall be entitled to vote by proxy, but a member other than a natural person may vote through an agent designated for the purpose. Irrespective of the number of shares held by him, no member shall have more than one vote.

(June 26, 1934, ch. 750, title I, § 110, formerly § 10, 48 Stat. 1219, renumbered § 11, Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 631, and amended Oct. 17, 1963, Pub. L. 88-150, § 1, 77 Stat. 270, renumbered title I, § 110, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1963—Pub. L. 88-150 substituted "during the following January, February, or March" for "during the month of the following January".

§ 1761. Management; board of directors, credit committee, and supervisory committee; compensation

The business affairs of a Federal credit union shall be managed by a board of not less than five directors, and a credit committee of not less than three members, all to be elected at the annual members' meeting by and from the members, and by a supervisory committee of not less than three members nor more than five members, one of whom may be a director other than the treasurer, to be appointed by the board. Any vacancy occurring in the supervisory committee shall be filled in the same manner as original appointments to such committee. All members of the board and of such committees shall hold office for such terms, respectively, as the bylaws may provide. A record of the names and addresses of the members of the board and such committees and of the officers of the credit union shall be filed with the Administration within ten days after their elec-

tion or appointment. No member of the board or of either such committee shall, as such, be compensated: *Provided, however,* That reasonable health, accident, and similar insurance protection shall not be considered compensation under regulations promulgated by the Administrator.

(June 26, 1934, ch. 750, title I, § 111, formerly § 11, 48 Stat. 1219; June 15, 1940, ch. 366, 54 Stat. 398; July 31, 1946, ch. 711, §§ 3–6, 60 Stat. 745; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091; Oct. 25, 1949, ch. 713, § 2, 63 Stat. 890; June 30, 1954, ch. 426, § 1, 68 Stat. 336; Aug. 24, 1954, ch. 905, §§ 1, 2, 68 Stat. 792, renumbered § 12, amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 632; July 2, 1964, Pub. L. 88-353, § 2, 78 Stat. 269; Mar. 10, 1970, Pub. L. 91-206, § 2(3), 84 Stat. 49, renumbered title I, § 111, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994, and amended Oct. 28, 1974, Pub. L. 93-495, title I, § 116, 88 Stat. 1507.)

AMENDMENTS

1974—Pub. L. 93-495 added proviso relating to compensation in the form of health, accident, and similar insurance protection.

1970—Pub. L. 91-206 substituted "Administration" for "Bureau".

1964—Pub. L. 88-353 increased the size of the supervisory committee from three members to not less than three members nor more than five members.

1959—Pub. L. 86-354 provided for the appointment instead of election of the members of the supervisory committee and for the filling of vacancies in such committee, and deleted former subsecs. (b) to (e) relating to officers, directors, credit committee and supervisory committee, which are now incorporated in sections 1761a to 1761d of this title, respectively.

1954—Subsecs. (b), (c). Act Aug. 24, 1954, provided express authority for the Director of the Bureau of Federal Credit Unions to regulate the minimum amount and character of surety bonds for officers and employees.

Subsec. (c). Act June 30, 1954, added the provision with respect to interest refunds.

1949—Subsec. (d). Act Oct. 25, 1949, substituted "$400" for "$300" wherever appearing.

1946—Subsec. (c). Act July 31, 1946, struck out "fix the amount and character of the surety bond required of any officer having custody of funds" and inserted "require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character to be determined, from time to time, by the board and authorize the payment of the premium or premiums therefor from the funds of the Federal credit union".

Subsec. (d). Act July 31, 1946, omitted the requirement that notice of meeting of the credit committee must be given by the treasurer and increased the maximum amount of an unsecured loan to a member from $100 to $300.

Subsec. (e). Act July 31, 1946, added last sentence defining the term "passbook".

1940—Subsec. (d). Act June 15, 1940, substituted "$100" for "$50" in fourth sentence.

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Administration" and for "Governor" by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

§ 1761a. Executive officers; general manager

At their first meeting after the annual meeting of the members, the directors shall elect from their number a president, one or more vice presidents, a secretary, and a treasurer, who shall be the executive officers of the corporation. No executive officer, except the treasurer, shall be compensated as such. The offices of secretary and treasurer may be held by the same person. The duties of the officers shall be as determined by the bylaws. Before the treasurer shall enter upon his duties he shall give bond with good and sufficient surety, in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Administrator, conditioned upon the faithful performance of his trust.

(June 26, 1934, ch. 750, title I, § 112, formerly § 13, as added Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 632, amended Oct. 17, 1963, Pub. L. 88-150, § 2, 77 Stat. 270; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, and renumbered Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director".

1963—Pub. L. 88-150 deleted from the fourth sentence ", except that the treasurer shall be the general manager of the corporation" following "bylaws".

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 11(b) of act June 26, 1934, ch. 750, 48 Stat. 1219 (formerly classified to section 1761(b) of this title), prior to the amendment and renumbering of act June 26, 1934, by Pub. L. 86-354.

§ 1761b. Board of directors; meetings; powers and duties; executive committee; membership officers; membership application

The board of directors shall meet at least once a month and shall have the general direction and control of the affairs of the corporation. Minutes of all such meetings shall be kept. Among other things they shall act upon applications for membership; require any officer or employee having custody of or handling funds to give bond with good and sufficient surety in an amount and character to be determined by the board of directors in compliance with regulations prescribed from time to time by the Administrator, and authorize the payment of the premium or premiums therefor from the funds of the Federal credit union; fill vacancies in the board and in the credit committee until successors elected at the next annual meeting have qualified; have charge of investments other than loans to members, except that the board may designate a committee of not less than two to act as an investment committee, such investment committee to have charge of making investments under rules and procedures established by the board of directors; determine from time to time the maximum number of shares that may be held by an individual; subject to the limitations of this chapter, determine the interest rates on loans and the maximum amount which may be loaned with or without security to any member; subject to such regulations as may be issued by the Ad-

ministrator, authorized an interest refund to members of record at the close of business on the last day of any dividend period in proportion to the interest paid by them during that dividend period; and provide for compensation of necessary clerical and auditing assistance requested by the supervisory committee, and of loan officers appointed by the credit committee. The board may appoint an executive committee of not less than three directors to exercise such authority as may be delegated to it subject to such conditions and limitations as may be prescribed by the board. Such executive committee or one or more membership officers appointed by the board from among the members of the credit union, other than the treasurer, an assistant treasurer, or a loan officer, may be authorized by the board to approve applications for membership under such conditions as the board may prescribe; except that such committee or membership officer so authorized shall submit to the board at each monthly meeting a list of approved or pending applications for membership received since the previous monthly meeting, together with such other related information as the bylaws or the board may require. If a membership application is denied, the reasons therefor shall be furnished in writing to the person whose application is denied, upon written request.

(June 26, 1934, ch. 750, title I, § 113, formerly § 14, as added Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 632, amended July 2, 1964, Pub. L. 88-353, § 3, 78 Stat. 269; July 5, 1968, Pub. L. 90-375, § 1(4), 82 Stat. 284; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, renumbered Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994, and amended Aug. 22, 1974, Pub. L. 93-383, title VII, § 723, 88 Stat. 719.)

AMENDMENTS

1974—Pub. L. 93-383 added provisions authorizing designation of a committee of not less than two to act as an investment committee and provisions relating to denial of a membership application, substituted "one or more membership officers" for "a membership officer", and substituted provisions relating to exercise of authority by the executive committee for provisions setting forth specified functions of the executive committee.

1970—Pub. L. 91-206 substituted "Administrator" for "Director" in two instances.

1968—Pub. L. 90-375 substituted "the purchase and sale of securities, the borrowing of funds, and the making of loans to other credit unions" for "the purchase and sale of securities or the making of loans to other credit unions, or both".

1964—Pub. L. 88-353 substituted "the last day of any dividend period in proportion to the interest paid by them during that dividend period" for "December 31 in proportion to the interest paid by them during that year."

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 11(c) of act June 26, 1934, ch. 750, 48 Stat. 1219 (formerly classified to section 1761(c) of this title), prior to the amendment and renumbering of act June 26, 1934, by Pub. L. 86-354.

§ 1761c. Credit committee; meetings; powers and duties; loan limits; security

The credit committee shall hold such meetings as the business of the Federal credit union may require and not less frequently than once a month to consider applications for loans. Reasonable notice of such meetings shall be given to all members of the committee. No loan shall be made unless it is approved by a majority of the entire committee and by all members of the committee who are present at the meeting at which the application is considered; except that the credit committee may appoint one or more loan officers, and delegate to him or them the power to approve loans. Each loan officer shall furnish to the credit committee a record of each loan approved or not approved by him within seven days of the date of the filing of the application therefor. All loans not approved by a loan officer shall be acted upon by the credit committee. No individual shall have authority to disburse funds of the Federal credit union for any loan which has been approved by him in his capacity as a loan officer. Not more than one member of the credit committee may be appointed as a loan officer. Applications for loans shall be made on forms prepared by such committee, which shall set forth the purpose for which the loan is desired, the security, if any, and such other data as may be required. No loan which is not adequately secured may be made to any member, if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which, in the case of a credit union whose unimpaired capital and surplus is less than $8,000, would exceed $200, or which, in the case of any other credit union, would exceed $2,500 or 2½ per centum of its unimpaired capital and surplus, whichever is less. No loan may be made to any member if, upon the making of that loan, the member would be indebted to the Federal credit union upon loans made to him in an aggregate amount which would exceed $200 or 10 percentum of the credit union's unimpaired capital and surplus, whichever is greater. For the purposes of this section an assignment of shares or the endorsement of a note shall be deemed security and, subject to such regulations as the Administrator may prescribe, insurance obtained under title I of the National Housing Act [12 U.S.C. 1702 et seq.] shall be deemed adequate security.

(June 26, 1934, ch. 750, title I, § 114, formerly § 15, as added Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 633, amended July 2, 1964, Pub. L. 88-353, § 4, 78 Stat. 269; Dec. 13, 1967, Pub. L. 90-188, § 1, 81 Stat. 567; July 5, 1968, Pub. L. 90-375, § 1(5), 82 Stat. 284; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, and renumbered Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

REFERENCES IN TEXT

Title I of the National Housing Act, referred to in the text, is classified to subchapter II (§ 1702 et seq.) of chapter 13 of this title.

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director".

1968—Pub. L. 90-375 substituted provisions which increased the unsecured loan limit, in the case of a credit union whose unimpaired capital and surplus is less than $8,000 to $200, and, in the case of any other credit union to $2,500 or 2½% of the unimpaired capital and surplus, whichever is less, for provisions which authorized credit unions to make unsecured loans of

$750 or 10% of their unimpaired capital and surplus, whichever is smaller.

1967—Pub. L. 90-188 deleted "up to the unsecured limit, or in excess of such limit if such excess is fully secured by unpledged shares" from the end of the provision that credit committees may appoint one or more loan officers, and delegate to him or them the power to approve loans.

1964—Pub. L. 88-353 inserted "and, subject to such regulations as the Director may prescribe, insurance obtained under title I of the National Housing Act shall be deemed adequate security".

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 11(d) of act June 26, 1934, ch. 750, 48 Stat. 1219 (formerly classified to section 1761(d) of this title), prior to the amendment and renumbering of act June 26, 1934 by Pub. L. 86-354.

§ 1761d. Supervisory committee; powers and duties; suspension of members; passbook

The supervisory committee shall make or cause to be made an annual audit and shall submit a report of that audit to the board of directors and a summary of the report to the members at the next annual meeting of the credit union; shall make or cause to be made such supplementary audits as it deems necessary or as may be ordered by the Administrator, and submit reports of the supplementary audits to the board of directors; may by a unanimous vote suspend any officer of the credit union or any member of the credit committee or of the board of directors, until the next members' meeting, which shall be held not less than seven nor more than fourteen days after any such suspension, at which meeting any such suspension shall be acted upon by the members; and may call by a majority vote a special meeting of the members to consider any violation of this chapter, the charter, or the bylaws, or any practice of the credit union deemed by the supervisory committee to be unsafe or unauthorized. Any member of the supervisory committee may be suspended by a majority vote of the board of directors. The members shall decide, at a meeting held not less than seven nor more than fourteen days after any such suspension, whether the suspended committee member shall be removed from or restored to the supervisory committee. The supervisory committee shall cause the passbooks and accounts of the members to be verified with the records of the treasurer from time to time, and not less frequently than once every two years. As used in this section, the term "passbook" shall include any book, statement of account, or other record approved by the Administrator for use by Federal credit unions.

(June 26, 1934, ch. 750, title I, § 115, formerly § 16, as added Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 633, amended July 5, 1968, Pub. L. 90-375, § 1(6), (7), 82 Stat. 284, 285; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, renumbered Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994, and amended Aug. 22, 1974, Pub. L. 93-383, title VII, § 724, 88 Stat. 719.)

AMENDMENTS

1974—Pub. L. 93-383 substituted "an annual" for "a semiannual".

1970—Pub. L. 91-206 substituted "Administrator" for "Director" in two instances.

1968—Pub. L. 90-375 substituted provisions which required a semiannual audit for provisions which required a quarterly examination of the affairs of a Federal credit union, including an audit of the books, authorized the making of such supplementary audits as deemed necessary by the supervisory committee or as ordered by the Director, eliminated the requirement of an annual audit, and provided that the suspension of any member of the supervisory committee be pursuant to a majority vote of the board of directors.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 11(e) of act June 26, 1934, ch. 750, 48 Stat. 1219 (formerly classified to section 1761(e) of this title), prior to the amendment and renumbering of act June 26, 1934 by Pub. L. 86-354.

§ 1762. Reserves

(a) Immediately before the payment of each dividend, the gross earnings of the credit union shall be determined. From this amount, there shall be set aside, as a regular reserve against losses on loans and against such other losses as may be specified in regulations prescribed under this chapter, sums in accordance with the following schedule:

10 per centum of gross income until the regular reserve shall equal 7½ per centum of the total of outstanding loans and risk assets, then

5 per centum of gross income until the regular reserve shall equal 10 per centum of the total of outstanding loans and risk assets.

Whenever the regular reserve falls below 10 per centum or 7½ per centum of the total of outstanding loans and risk assets, as the case may be, it shall be replenished by regular contributions in such amounts as may be needed to maintain the reserve goals of 7½ per centum or 10 per centum.

(b) In addition to such regular reserve, special reserves to protect the interests of members shall be established—

(1) when required by regulation; or

(2) when found by the Administrator, in any special case, to be necessary for that purpose.

(June 26, 1934, ch. 750, title I, § 116, formerly § 12, 48 Stat. 1221; Oct. 25, 1949, ch. 713, § 3, 63 Stat. 890, renumbered § 17, amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 634; Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49, renumbered title I, § 116, and amended Oct. 19, 1970, Pub. L. 91-468, §§ 1(2), 9, 84 Stat. 994, 1017.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-468, § 9, redesignated first sentence as subsec. (a), and as so redesignated, changed the base for reserve credits from net income to gross income as follows: 10 percent until the regular reserve equals 7½ percent of total outstanding loans and risk assets, then 5 percent until the regular reserve equals 10 percent of outstanding loans and risk assets.

Subsec. (b). Pub. L. 91-468, § 9, redesignated second sentence as subsec. (b) without substantial change.

Par. (2). Pub. L. 91-206 substituted "Administrator" for "Director".

1959—Pub. L. 86-354 substituted "charges", "each dividend period", "any dividends" and "Director", for "fines", "each year", "any dividend" and "director",

respectively, inserted "continue to" and redesignated clauses (a) and (b) as (1) and (2).

1949—Act Oct. 25, 1949, amended section generally by changing the requirement that fees and fines and 20 percent of net earnings of each year must be set aside in a reserve fund to make it unnecessary for anything to be set aside after the reserve fund is equal to 10 percent of the total amount of the member's shares on deposit.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1781 of this title.

§ 1763. Dividends

At such intervals as the board of directors may authorize, and after provision for the required reserves, the board of directors may declare a dividend to be paid from the remaining net earnings. Such dividends shall be paid on all paid-up shares outstanding at the end of the period for which the dividend is declared. Shares which become fully paid up during such dividend period and are outstanding at the close of the period shall be entitled to a proportional part of such dividend. Dividend credit may be accrued on shares as authorized by the board of directors.

(June 26, 1934, ch. 750, title I, § 117, formerly § 13, 48 Stat. 1221, renumbered § 18, amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 634; Dec. 13, 1967, Pub. L. 90-188, § 2, 81 Stat. 567, renumbered title I, § 117, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994, and amended Aug. 22, 1974, Pub. L. 93-383, title VII, § 725, 88 Stat. 720.)

AMENDMENTS

1974—Pub. L. 93-383 substituted "At such intervals as the board of directors may authorize" for "Annually, semiannually, or quarterly, as the bylaws may provide", and "Dividend credit may be accrued on shares as authorized by the board of directors" for "Dividend credit for a month may be accrued on shares which are or become fully paid up during the first ten days of that month".

1967—Pub. L. 90-188 inserted "or quarterly" after "semiannually" and substituted "ten" for "five".

1959—Pub. L. 86-354 authorized semiannual dividends, empowered the board of directors to declare them instead of only recommend them and provided for dividend credit.

§ 1764. Expulsion and withdrawal

A member may be expelled by a two-thirds vote of the members of a Federal credit union present at a special meeting called for the purpose, but only after an opportunity has been given him to be heard. Withdrawal or expulsion of a member shall not operate to relieve him from liability to the Federal credit union. The amount to be paid a withdrawing or expelled member by a Federal credit union shall be determined and paid in the manner specified in the bylaws.

(June 26, 1934, ch. 750, title I, § 118, formerly § 14, 48 Stat. 1221, renumbered § 19, Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 634, renumbered title I, § 118, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

§ 1765. Minors

Shares may be issued in the name of a minor or in trust, subject to such conditions as may be prescribed by the bylaws. When shares are issued in trust, the name of the beneficiary shall be disclosed to the Federal credit union.

(June 26, 1934, ch. 750, title I, § 119, formerly § 15, 48 Stat. 1221, renumbered § 20, and amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 634, renumbered title I, § 119, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1959—Pub. L. 86-354 inserted "When shares are issued in trust".

§ 1766. Certain powers of Administrator and Administration personnel

(a) The Administrator may prescribe rules and regulations for the administration of this chapter (including, but not by way of limitation, the merger, consolidation, and dissolution of corporations organized under this chapter).

(b)(1) The Administrator may suspend or revoke the charter of any Federal credit union, or place the same in involuntary liquidation and appoint a liquidating agent therefor, upon his finding that the organization is bankrupt or insolvent, or has violated any of the provisions of its charter, its bylaws, this chapter, or any regulations issued thereunder.

(2) The Administrator, through such persons as he shall designate, may examine any Federal credit union in voluntary liquidation and, upon his finding that such voluntary liquidation is not being conducted in an orderly or efficient manner or in the best interests of its members, may terminate such voluntary liquidation and place such organization in involuntary liquidation and appoint a liquidating agent therefor.

(3) Such liquidating agent shall have power and authority, subject to the control and supervision of the Administrator and under such rules and regulations as the Administrator may prescribe, (A) to receive and take possession of the books, records, assets, and property of every description of the Federal credit union in liquidation, to sell, enforce collection of, and liquidate all such assets and property, to compound all bad or doubtful debts, and to sue in his own name or in the name of the Federal credit union in liquidation, and defend such actions as may be brought against him as liquidating agent or against the Federal credit union; (B) to receive, examine, and pass upon all claims against the Federal credit union in liquidation, including claims of members on shares; (C) to make distribution and payment to creditors and members as their interests may appear; and (D) to execute such documents and papers and to do such other acts and things which he may deem necessary or desirable to discharge his duties hereunder.

(4) Subject to the control and supervision of the Administrator and under such rules and regulations as the Administrator may prescribe, the liquidating agent of a Federal credit union in involuntary liquidation shall (A) cause notice to be given to creditors and members to present their claims and make legal proof thereof, which notice shall be published once a week in

each of three successive weeks in a newspaper of general circulation in each county in which the Federal credit union in liquidation maintained an office or branch for the transaction of business on the date it ceased unrestricted operations; except that whenever the aggregate book value of the assets and property of a Federal credit union in involuntary liquidation is less than $1,000, unless the Administrator shall find that its books and records do not contain a true and accurate record of its liabilities he shall declare such Federal credit union in liquidation to be a "no publication" liquidation, and publication of notice to creditors and members shall not be required in such case; (B) from time to time make a ratable dividend on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction and, after the assets of such organization have been liquidated, make further dividends on all claims previously proved or adjudicated, and he may accept in lieu of a formal proof of claim on behalf of any creditor or member the statement of any amount due to such creditor or member as shown on the books and records of the credit union; but all claims not filed before payment of the final dividend shall be barred and claims rejected or disallowed by the liquidating agent shall be likewise barred unless suit be instituted thereon within three months after notice of rejection or disallowance; and (C) in a "no publication" liquidation, determine from all sources available to him, and within the limits of available funds of the Federal credit union, the amounts due to creditors and members, and after sixty days shall have elapsed from the date of his appointment distribute the funds of the Federal credit union to creditors and members ratably and as their interests may appear.

(5) Upon certification by the liquidating agent in the case of an involuntary liquidation, and upon such proof as shall be satisfactory to the Administrator in the case of a voluntary liquidation, that distribution has been made and that liquidation has been completed, as provided herein, the Administrator shall cancel the charter of such Federal credit union; but the corporate existence of the Federal credit union shall continue for a period of three years from the date of such cancellation of its charter, during which period the liquidating agent, or his duly appointed successor, or such persons as the Administrator shall designate, may act on behalf of the Federal credit union for the purpose of paying, satisfying, and discharging any existing liabilities or obligations, collecting and distributing its assets, and doing all other acts required to adjust and wind up its business and affairs, and it may sue and be sued in its corporate name.

(c) After the expiration of five years from the date of cancellation of the charter of a Federal credit union the Administrator may, in his discretion, destroy any or all books and records of such Federal credit union in his possession or under his control.

(d) The Administrator is authorized and empowered to execute any and all functions and perform any and all duties vested in him hereby, through such persons as he shall designate or employ; and he may delegate to any person or persons, including any institution operating under the general supervision of the Administration, the performance and discharge of any authority, power, or function vested in him by this chapter.

(e) All books and records of Federal credit unions shall be kept and reports shall be made in accordance with forms approved by the Administrator.

(f)(1) The Administrator is authorized to make investigations and to conduct researches and studies of the problems of persons of small means in obtaining credit at reasonable rates of interest, and of the methods and benefits of cooperative saving and lending among such persons. He is further authorized to make reports of such investigations and to publish and disseminate the same.

(2)(A) The Administrator is authorized to conduct directly, or to make grants to or contracts with colleges or universities, State or local educational agencies, or other appropriate public or private nonprofit organizations to conduct, programs for the training of persons engaged, or preparing to engage, in the operation of credit unions and in related consumer counseling programs, serving the poor. He is authorized to establish a program of experimental, developmental, demonstration, and pilot projects, either directly or by grants to public or private nonprofit organizations, including credit unions, or by contracts with such organizations or other private organizations, designed to promote more effective operation of credit unions, and related consumer counseling programs, serving the poor.

(B) In carrying out his authority under this paragraph, the Administrator shall consult with officials of the Office of Economic Opportunity and other appropriate Federal agencies responsible for the administration of projects or programs concerned with problems of the poor. The development and operation of programs and projects under this paragraph shall involve maximum feasible participation of residents of the areas and members of the groups served by such programs and projects, with community action agencies established under the provisions of the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] serving, to the extent feasible, as the means through which such participation is achieved.

(C) In order to carry out the purposes of this paragraph, there is authorized to be appropriated, as a supplement to any funds that may be expended by the Administrator pursuant to sections 1755 and 1756 of this title for such purposes, not to exceed $300,000 for the fiscal year ending June 30, 1970, and not to exceed $1,000,000 for the fiscal year ending June 30, 1971.

(g) Any officer or employee of the Administration is authorized, when designated for the purpose by the Administrator, to administer oaths and affirmations and to take affidavits and depositions touching upon any matter within the jurisdiction of the Administration.

(h) The Administrator is authorized, empowered, and directed to require that every person appointed or elected by any Federal credit union to any position requiring the receipt, payment, or custody of money or other person-

al property owned by a Federal credit union, or in its custody or control as collateral or otherwise, give bond in a corporate surety company holding a certificate of authority from the Secretary of the Treasury under sections 6 to 13 of title 6, as an acceptable surety on Federal bonds. Any such bond or bonds shall be in a form approved by the Administrator with a view to providing surety coverage to the Federal credit union with reference to loss by reason of acts of fraud or dishonesty including forgery, theft, embezzlement, wrongful abstraction, or misapplication on the part of the person, directly or through connivance with others, and such other surety coverages as the Administrator may determine to be reasonably appropriate or as elsewhere required by this chapter. Any such bond or bonds shall be in such an amount in relation to the money or other personal property involved or in relation to the assets of the Federal credit union as the Administrator may from time to time prescribe by regulation for the purpose of requiring reasonable coverage. In lieu of individual bonds the Administrator may approve the use of a form of schedule or blanket bond which covers all of the officers and employees of a Federal credit union whose duties include the receipt, payment, or custody of money or other personal property for or on behalf of the Federal credit union. The Administrator may also approve the use of a form of excess coverage bond whereby a Federal credit union may obtain an amount of coverage in excess of the basic surety coverage.

(i) In addition to the authority conferred upon him by other sections of this chapter, the Administrator is authorized in carrying out his functions under this chapter—

(1) to appoint such personnel as may be necessary to enable the Administration to carry out its functions;

(2) to expend such funds, enter into such contacts with public and private organizations and persons, make such payments in advance or by way of reimbursement, and perform such other functions or acts as he may deem necessary or appropriate to carry out the provisions of this chapter; and

(3) to pay stipends, including allowances for travel to and from the place of residence, to any individual to study in a program assisted under this chapter upon a determination by the Administrator that assistance to such individual in such studies will be in furtherance of the purposes of this chapter.

(June 26, 1934, ch. 750, title I, § 120, formerly § 16, 48 Stat. 1221; Dec. 6, 1937, ch. 3, § 3, 51 Stat. 4; July 31, 1946, ch. 711, § 8, 60 Stat. 745; 1947 Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091; June 30, 1954, ch. 426, § 2, 68 Stat. 335; Aug. 24, 1954, ch. 905, § 3, 68 Stat. 792, renumbered § 21, and amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 635; July 5, 1968, Pub. L. 90-375, § 2(a), 82 Stat. 285; Mar. 10, 1970, Pub L. 91-206, §§ 2(1), (3), 4, 84 Stat. 49, 50, renumbered title I, § 120, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

REFERENCES IN TEXT

In the original, "sections 6 to 13 of title 6", referred to in subsec. (h), read "the Act approved July 30, 1947 (6 U.S.C., secs. 6-13)".

The Economic Opportunity Act of 1964, referred to in subsec. (f)(2)(B), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, which is classified to chapter 34 (§ 2701 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of Title 42 and Tables volume.

AMENDMENTS

1970—Subsecs. (a) to (h). Pub. L. 91-206, § 2(1), (3), substituted "Administrator" for "Director" and "Administration" for "Bureau" wherever appearing.

Subsec. (i). Pub. L. 91-206, § 4, added subsec. (i).

1968—Subsec. (f)(1). Pub. L. 90-375 redesignated existing provisions as subsec. (f)(1).

Subsec. (f)(2). Pub. L. 90-375 added subsec. (f)(2)(A) to (C).

1959—Pub. L. 86-354 made capitalization, punctuation and phraseological changes throughout the text; redesignated in subsec. (b)(3) clauses (i)-(iv) as (A) to (D) and corrected in clause (A) the final "credit" to read "credit"; redesignated in subsec. (b)(4) clauses (i) to (iii) as clauses (A) to (C); and redesignated the second subsec. (b) and subsecs. (c) to (g) as subsecs. (c) to (h), respectively.

1954—Subsec. (f). Act June 30, 1954, added subsec. (f).

Subsec. (g). Act Aug. 24, 1954, added subsec. (g).

1946—Subsec. (b). Act July 31, 1946, provided a more adequate statutory procedure for the administration of this chapter by expressly authorizing the liquidation of a Federal credit union and setting up a procedure which will achieve more orderly and complete liquidation.

1937—Subsec. (e). Act Dec. 6, 1937, added subsec. (e).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2(b) of Pub. L. 90-375 provided that: "The amendments made by subsection (a) [amending subsec. (f) of this section] shall become effective July 1, 1968."

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section, "Federal Deposit Insurance Corporation" was substituted for "Governor" and for "Administration", and "he", "him", and "his", referring to such Governor, were changed to "it" and "its" by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1772a of this title.

§ 1767. Fiscal agents and depositories

Each Federal credit union organized under this chapter, when requested by the Secretary of the Treasury, shall act as fiscal agent of the United States and shall perform such services as the Secretary of the Treasury may require in connection with the collection of taxes and other obligations due the United States and the lending, borrowing, and repayment of money by the United States, including the issue, sale, redemption, or repurchase of bonds, notes, Treasury certificates of indebtedness, or other obligations of the United States; and to facilitate such purposes the Administrator shall furnish to the Secretary of the Treasury from time to time the names and addresses of all

Federal credit unions with such other available information concerning them as may be requested by the Secretary of the Treasury. Any Federal credit union organized under this chapter, when designated for that purpose by the Secretary of the Treasury, shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary of the Treasury.

(June 26, 1934, ch. 750, title I, § 121, formerly § 17, 48 Stat. 1222; 1947, Reorg. Plan No. 1, § 401, eff. July 1, 1947, 12 F.R. 4534, 61 Stat. 952; June 29, 1948, ch. 711, §§ 1, 2, 62 Stat. 1091, renumbered § 22, Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 635, and amended Mar. 10, 1970, Pub. L. 91-206, § 2(1), 84 Stat. 49 renumbered title I, § 121, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director".

TRANSFER OF FUNCTIONS

Transfer of functions of Farm Credit Administration and the Governor thereof, see notes under section 1751 of this title.

In text of this section. "Federal Deposit Insurance Corporation" was substituted for "Governor" by Reorg. Plan No. 1 of 1947. See note under section 1751 of this title.

§ 1768. Taxation

The Federal credit unions organized hereunder, their property, their franchises, capital, reserves, surpluses, and other funds, and their income shall be exempt from all taxation now or hereafter imposed by the United States or by any State, Territorial, or local taxing authority; except that any real property and any tangible personal property of such Federal credit unions shall be subject to Federal, State, Territorial, and local taxation to the same extent as other similar property is taxed. Nothing herein contained shall prevent holdings in any Federal credit union organized hereunder from being included in the valuation of the personal property of the owners or holders thereof in assessing taxes imposed by authority of the State or political subdivision thereof in which the Federal credit union is located; but the duty or burden of collecting or enforcing the payment of such a tax shall not be imposed upon any such Federal credit union and the tax shall not exceed the rate of taxes imposed upon holdings in domestic credit unions.

(June 26, 1934, ch. 750, title I, § 122, formerly § 18, 48 Stat. 1222; Dec. 6, 1937, ch. 3, § 4, 51 Stat. 4, renumbered § 23, and amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 637, renumbered title I, § 122, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1959—Pub. L. 86-354 changed "*Provided, however,* That" to "but" and inserted "a" preceding "tax".

1937—Act Dec. 6, 1937 added the tax exemption provision, the real and tangible personal property proviso, provided that the responsibility of tax collection would not be imposed upon the Federal credit unions, and that the tax rate would not exceed that of domestic credit unions.

§ 1769. Separability of provisions; right to alter, amend, or repeal chapter

(a) If any provision of this chapter or the application thereof to any person or circumstance, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(b) The right to alter, amend, or repeal this chapter or any part thereof, or any charter issued pursuant to the provisions of this chapter, is expressly reserved.

(June 26, 1934; ch. 750, title I, § 123, formerly § 24, as added Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 637, and renumbered title I, § 123, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

CODIFICATION

A prior section 1769, act June 26, 1934, ch. 750, § 19, 48 Stat. 1222, which made available not more than $50,000 of the funds available to the Governor, under section 1404 of this title, for administrative expenses in administering this chapter, was omitted from the Code as having expired.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 20 of act June 26, 1934, ch. 750, 48 Stat. 1222 (formerly classified to section 1770 of this title), prior to the amendment and renumbering of act June 26, 1934, by Pub. L. 86-354.

§ 1770. Allotment of space in Federal buildings

Upon application by any credit union organized under State law or by any Federal credit union organized in accordance with the terms of this chapter, at least 95 per centum of the membership of which is composed of persons who either are presently Federal employees or were Federal employees at the time of admission into the credit union, and members of their families, which application shall be addressed to the officer or agency of the United States charged with the allotment of space in the Federal buildings in the community or district in which such credit union does business, such officer or agency may in his or its discretion allot space to such credit union if space is available without charge for rent or services.

(June 26, 1934, ch. 750, title I, § 124, formerly § 25, as added Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 638, and renumbered title I, § 124, Oct. 19, 1970. Pub. L. 91-468, § 1(2), 84 Stat. 994.)

CODIFICATION

A prior section 1770, act June 26, 1934, ch. 750, § 20, 48 Stat. 1222, related to separability of provisions and right to alter, amend, or repeal chapter, and is now covered by section 1769 of this title.

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in section 21 of act June 26, 1934, ch. 750, as added July 9, 1937, ch. 471, 50 Stat. 487 (formerly classified to section 1771 of this title), prior to the amendment and renumbering of act June 26, 1934, by Pub. L. 86-354.

§ 1771. Conversion from Federal to State credit union and from State to Federal credit union

(a) A Federal credit union may be converted into a State credit union under the laws of any State, the District of Columbia, the several Ter-

ritories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, by complying with the following requirements:

(1) The proposition for such conversion shall first be approved, and a date set for a vote thereon by the members (either at a meeting to be held on such date or by written ballot to be filed on or before such date), by a majority of the directors of the Federal credit union. Written notice of the proposition and of the date set for the vote shall then be delivered in person to each member, or mailed to each member at the address for such member appearing on the records of the credit union, not more than thirty nor less than seven days prior to such date. Approval of the proposition for conversion shall be by the affirmative vote of a majority of the members, in person or in writing.

(2) A statement of the results of the vote, verified by the affidavits of the president or vice president and the secretary, shall be filed with the Administration within ten days after the vote is taken.

(3) Promptly after the vote is taken and in no event later than ninety days thereafter, if the proposition for conversion was approved by such vote, the credit union shall take such action as may be necessary under the applicable State law to make it a State credit union, and within ten days after receipt of the State credit union charter there shall be filed with the Administration a copy of the charter thus issued. Upon such filing the credit union shall cease to be a Federal credit union.

(4) Upon ceasing to be a Federal credit union, such credit union shall no longer be subject to any of the provisions of this chapter. The successor State credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the Federal credit union to the same extent as though the conversion had not taken place.

(b)(1) A State credit union, organized under the laws of any State, the District of Columbia, the several Territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, may be converted into a Federal credit union by (A) complying with all State requirements requisite to enabling it to convert to a Federal credit union or to cease being a State credit union, (B) filing with the Administration proof of such compliance, satisfactory to the Administrator, and (C) filing with the Administration and organization certificate as required by this chapter.

(2) When the Administrator has been satisfied that all of such requirements, and all other requirements of this chapter, have been complied with, the Administrator shall approve the organization certificate. Upon such approval, the State credit union shall become a Federal credit union as of the date it ceases to be a State credit union. The Federal credit union shall be vested with all of the assets and shall continue responsible for all of the obligations of the State credit union to the same extent as though the conversion had not taken place.

(June 26, 1934, ch. 750, title I, § 125, formerly § 26, as added Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 638, amended Mar. 10, 1970, Pub. L. 91-206, § 2(1), (3), 84 Stat. 49, and renumbered title I, § 125, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

CODIFICATION

A prior section 1771, act June 26, 1934, ch. 750, § 21, as added July 9, 1937, ch. 471, 50 Stat. 487, related to allotment of space in Federal buildings and is now covered by section 1770 of this title.

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administration" for "Bureau" and "Administrator" for "Director" wherever appearing.

§ 1772. Territorial application of chapter

The provisions of this chapter shall apply to the several States, the District of Columbia, the several Territories, including the trust territories, and possessions of the United States, the Panama Canal Zone, and the Commonwealth of Puerto Rico.

(June 26, 1934, ch. 750, title I, § 126, formerly § 22, as added July 31, 1946, ch. 711, § 7, 60 Stat. 745, amended May 8, 1952, ch. 245, 66 Stat. 66, renumbered § 27, amended Sept. 22, 1959, Pub. L. 86-354, § 1, 73 Stat. 638, renumbered title I, § 126, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994 and amended Aug. 22, 1974, Pub. L. 93-383, title VII, § 726, 88 Stat. 720.)

AMENDMENTS

1974—Pub. L. 93-383 added reference to the trust territories.

1959—Pub. L. 86-354 provided for the application of the chapter to the States, the District of Columbia, the Territories and possessions of the United States and Puerto Rico and eliminated the specific reference to the Virgin Islands.

1952—Act May 8, 1952, amended section to extend provisions of this chapter to the Virgin Islands.

§ 1772a. Gifts; acceptance of conditional gifts; deposit

The Administrator is authorized to accept gifts of money made unconditionally by will or otherwise for the carrying out of any of the functions under this chapter. A conditional gift of money made by will or otherwise for such purposes may be accepted and used in accordance with its conditions, but no such gift shall be accepted which is conditioned upon any expenditure not to be met therefrom or from income thereof unless the Administrator determines that supplementation of such gift from the fees he may expend pursuant to sections 1755 and 1756 of this title or from any funds appropriated pursuant to section 1766(f)(2)(C) of this title for the purpose of making such expenditure will not adversely affect the sound administration of this chapter. Any such gift shall be deposited in the Treasury of the United States for the account of the Administration and may be expended in accordance with section 1755 of this title or as provided in the preceding sentence.

(June 26, 1934, ch. 750, title I, § 127, formerly § 28, as added July 5, 1968, Pub. L. 90-375, § 3, 82 Stat. 285, amended Mar. 10, 1970, Pub. L. 91-206, § 2(1), (3), 84 Stat. 49, and renumbered title I, § 127, Oct. 19, 1970, Pub. L. 91-468, § 1(2), 84 Stat. 994.)

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director" and "Administration" for "Bureau" wherever appearing.

§ 1773. District of Columbia credit unions; conversion to Federal status

Any credit union organized under the District of Columbia Credit Unions Act, as amended, may apply for conversion into a Federal credit union by filing with the Administrator of the National Credit Union Association (hereinafter referred to as the Administrator), pursuant to a resolution adopted by a majority of its directors, an organization certificate meeting the requirements of section 1753 of this title.

(Pub. L. 88-395, § 1, Aug. 1, 1964, 78 Stat. 377; Pub. L. 91-206, § 2(1), (2), Mar. 10, 1970, 84 Stat. 49.)

REFERENCES IN TEXT

The District of Columbia Credit Unions Act, referred to in text, was repealed by Pub. L. 88-395, § 4, Aug. 1, 1964, 78 Stat. 377.

CODIFICATION

Section was not enacted as part of the Federal Credit Union Act which comprises this chapter.

Section is also set out in D.C. Code, § 26-519.

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for Director" and "Administration" for "Bureau" wherever appearing.

TRANSFER OF FUNCTIONS

Transfer of functions of Bureau of Federal Credit Unions and the Director thereof to the National Credit Union Administration and the Administrator thereof, see section 1752a of this title and notes thereunder.

REPEALS; REVOCATION OF ORGANIZATION CERTIFICATES ISSUED UNDER DISTRICT OF COLUMBIA CREDIT UNIONS ACT

Section 4 of Pub. L. 88-395 provided that: "Effective thirty days after enactment of this Act [Aug. 1, 1964], the District of Columbia Credit Unions Act (47 Stat. 326), as amended, is repealed and all organization certificates issued thereunder and still in force are revoked."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1775 of this title.

§ 1774. Approval of certificate; assets and obligations of applicant credit union

The Administrator shall approve any such organization certificate meeting such requirements. Upon such approval, the applicant credit union shall become a Federal credit union, and shall be vested with all of the assets and shall continue responsible for all of the obligations of such applicant credit union to the same extent as though the conversion had not taken place.

(Pub. L. 88-395, § 2, Aug. 1, 1964, 78 Stat. 377; Pub. L. 91-206, § 2(1), Mar. 10, 1970, 84 Stat. 49.)

CODIFICATION

Section was not enacted as part of the Federal Credit Union Act which comprises this chapter.

Section is also set out in D.C. Code, § 26-520.

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director" wherever appearing.

TRANSFER OF FUNCTIONS

Transfer of functions of Bureau of Federal Credit Unions and the Director thereof to the National Credit Union Administration and the Administrator thereof, see section 1752a of this title and notes thereunder.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1775 of this title.

§ 1775. Conditions upon conversion to Federal Status

Any District of Columbia credit union converting into a Federal credit union in accordance with section 1773 to 1775 of this title shall thereupon be subject to the limitations, vested with the powers, and charged with the liabilities conferred and imposed by this chapter upon credit unions organized thereunder, except that—

(1) no fee shall be imposed upon a credit union converting pursuant to sections 1773 to 1775 of this title as an incident to its conversion;

(2) any loan or investment made by a credit union converting pursuant to sections 1773 to 1775 of this title in conformity with the District of Columbia Credit Unions Act prior to its conversion, which does not conform to the requirements of this chapter and is still outstanding at the time of conversion, shall be liquidated at or before its maturity or, if it has no maturity date, in a purdent manner and within a reasonable period of time;

(3) a credit union converting pursuant to sections 1773 to 1775 of this title shall submit proposed bylaws to the Administrator for his approval after its conversion, but not later than thirty days following its next annual meeting or six months after August 1, 1964, whichever is later: *Provided,* That any existing bylaw inconsistent with any other requirements of this chapter shall be deemed null and void.

(Pub. L. 88-395, § 3, Aug. 1, 1964, 78 Stat. 377; Pub. L. 91-206, § 2(1), Mar. 10, 1970, 84 Stat. 49.)

REFERENCES IN TEXT

The District of Columbia Credit Unions Act, referred to in text, was repealed by Pub. L. 88-395, § 4, Aug. 1, 1964, 78 Stat. 377.

CODIFICATION

Section was not enacted as part of the Federal Credit Union Act which comprises this chapter.

Section is also set out in D.C. Code, § 26-521.

AMENDMENTS

1970—Pub. L. 91-206 substituted "Administrator" for "Director" wherever appearing.

TRANSFER OF FUNCTIONS

Transfer of functions of Bureau of Federal Credit Unions and the Director thereof to the National Credit Union Administration and the Administrator thereof, see section 1752a of this title and notes thereunder.

SUBCHAPTER II—SHARE INSURANCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1752 of this title.

§ 1781. Insurance of member accounts

(a) Eligibility

The Administrator, as hereinafter provided, shall insure the member accounts of all Federal credit unions and he may insure the member accounts of (1) credit unions organized and operated according to the laws of any State, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, and (2) credit unions organized and operating under the jurisdiction of the Department of Defense if such credit unions are operating in compliance with the requirements of subchapter I of this chapter and regulations issued thereunder.

(b) Application; agreement

Application for insurance of member accounts shall be made immediately by each Federal credit union and may be made at any time by a State credit union or a credit union operating under the jurisdiction of the Department of Defense. Applications for such insurance shall be in such form as the Administrator shall provide and shall contain an agreement by the applicant—

(1) to pay the reasonable cost of such examinations as the Administrator may deem necessary in connection with determining the eligibility of the applicant for insurance: *Provided,* That examinations required under subchapter I of this chapter shall be so conducted that the information derived therefrom may be utilized for share insurance purposes, and examinations conducted by State regulatory agencies shall be utilized by the Administrator for such purposes to the maximum extent feasible;

(2) to permit and pay the reasonable cost of such examinations as in the judgment of the Administrator may from time to time be necessary for the protection of the fund and of other insured credit unions;

(3) to permit the Administrator to have access to any information or report with respect to any examination made by or for any public regulatory authority, including any commission, board, or authority having supervision of a State-chartered credit union, and furnish such additional information with respect thereto as the Administrator may require;

(4) to provide protection and indemnity against burglary, defalcation, and other similar insurable losses, of the type, in the form, and in an amount at least equal to that required by the laws under which the credit union is organized and operates;

(5) to maintain such regular reserves as may be required by the laws of the State, district, territory, or other jurisdiction pursuant to which it is organized and operated, in the case of a State-chartered credit union, or as may be required by section 1762 of this title, in the case of a Federal credit union;

(6) to maintain such special reserves as the Administrator, by regulation or in special cases, may require for protecting the interest of members or to assure that all insured credit unions maintain regular reserves which are not less than those required under subchapter I of this chapter;

(7) not to issue or have outstanding any account or security the form of which, by regulation on in special cases, has not been approved by the Administrator;

(8) to pay the premium charges for insurance imposed by this subchapter; and

(9) to comply with the requirements of this subchapter and of regulations prescribed by the Administrator pursuant thereto.

(c) Approval of application

(1) Before approving the application of any credit union for insurance of its member accounts, the Administrator shall consider—

(A) the history, financial condition, and management policies of the applicant;

(B) the economic advisability of insuring the applicant without undue risk of the fund;

(C) the general character and fitness of the applicant's management;

(D) the convenience and needs of the members to be served by the applicant; and

(E) whether the applicant is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

(2) The Administrator shall disapprove the application of any credit union for insurance of its member accounts if he finds that its reserves are inadequate, that its financial condition and policies are unsafe or unsound, that its management is unfit, that insurance of its member accounts would otherwise involve undue risk to the fund, or that its powers and purposes are inconsistent with the promotion of thrift among its members and the creation of a source of credit for provident or productive purposes.

(3) With respect to State credit unions which are authorized by State law to receive demand deposits, the Administrator shall approve the application of any such State credit union for insurance of its member accounts if (A) such State credit union otherwise meets the requirements for insurance established under this chapter, and (B) in the event of liquidation of such State credit union, the claims with respect to demand deposit accounts shall be subordinate to the claims with respect to member accounts. For purposes of this paragraph and for purposes of determining the extent of insurance coverage under this chapter, demand deposit accounts shall not be considered member accounts and shall not be insured under the provisions of this chapter.

(d) Consequence of disapproved application

In the case of any Federal credit union whose application for insurance is disapproved, if such Federal credit union has annually transferred such a percentage of its gross income to its reserves as is required under section 1762(a) of this title and notwithstanding any reserving requirements established under section 1762(b) of this title, the Administrator shall nonetheless issue to such Federal credit union a certificate

of insurance which shall be valid for a period of two years. The Administrator shall suspend or revoke the charter of any Federal credit union which has failed, upon the expiration of such two-year period of insurance, to file an application for insurance which is approved by the Administrator in accordance with subsection (c) of this section. A Federal credit union which is insured under this subsection for a period of two years is an insured credit union under the provisions of this subchapter for such period of two years. The Administrator shall, having regard to the purposes of this subsection, make every reasonable effort to prevent the closing of any Federal credit union which is insured for a period of two years under this subsection and is found to be in financial difficulties, if he determines that with the technical assistance and management training and counseling authorized to be provided under this subsection there is reasonable assurance that such difficulties can be sufficiently resolved within such two-year period so as to minimize the expenses of the Fund. The Administrator shall offer technical assistance, management training, and management counseling to all credit unions whose application for insurance has been disapproved so as to enable the maximum number of such credit unions to meet the standards for insurance required by this subchapter. In furnishing such technical assistance, management training, and management counseling, the Administrator may utilize moneys in the National Credit Union Share Insurance Fund as provided under section 1783(a) of this title. The Administrator shall also encourage to the maximum extent feasible, that such technical assistance, management training, and management counseling be made available through State stabilization funds, similar funds, or similar State credit union organizations. The Administrator shall also encourage State Credit Union Stabilization Funds or similar funds to reimburse the Credit Union Share Insurance Fund for any insurance payments made on behalf of accounts at insured credit unions whose applications for insurance have been disapproved.

(e) Certificate of insurance

Upon the approval of any application for insurance, the Administrator shall notify the applicant and shall issue to it a certificate evidencing the fact that it is, as of the date of issuance of the certificate, an insured credit union under the provisions of this subchapter.

(June 26, 1934, ch. 750, title II, § 201, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 994, and amended Dec. 23, 1971, Pub. L. 92-221, §§ 1, 2, 85 Stat. 796, 797.)

AMENDMENTS

1971—Subsec. (c)(2). Pub. L. 92-221, § 1(a), substituted "disapproved" for "reject".

Subsec. (c)(3). Pub. L. 92-221, § 2, added par. (3).

Subsec. (d). Pub. L. 92-221, § 1(b), substituted provisions allowing, in certain cases, a two-year period to meet the requirements for insurance following the disapproval of an application for insurance by a Federal credit union, for provisions mandating the suspension or revocation of the charter of a Federal credit union unless the credit union met the requirements for insurance and became an insured credit union within one year of the rejection of its application for insurance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1782 of this title.

§ 1782. Administration of insurance fund

(a) Reports of condition

(1) Each insured credit union shall make reports of condition to the Administrator upon dates which shall be selected by him. Such reports of condition shall be in such form and shall contain such information as the Administrator may require. The reporting dates selected for reports of condition shall be the same for all insured credit unions except that when any of said reporting dates is a nonbusiness day for any credit union the preceding business day shall be its reporting date. The total amount of the member accounts of each insured credit union as of each reporting date shall be reported in such reports of condition in accordance with regulations prescribed by the Administrator. Each report of condition shall contain a declaration by the president, by a vice president, by the treasurer, or by any other officer designated by the board of directors of the reporting credit union to make such declaration, that the report is true and correct to the best of his knowledge and belief. Unless such requirement is waived by the Administrator, the correctness of each report of condition shall be attested by the signatures of three of the officers of the reporting credit union with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct.

(2) The Administrator may call for such other reports as he may from time to time require.

(3) The Administrator may require reports of condition to be published in such manner, not inconsistent with any applicable law, as he may direct. Every insured credit union which willfully fails to make or publish any such report within ten days shall be subject to a penalty of not more than $100 for each day of such failure, recoverable by the Administrator for his use.

(4) The Administrator may accept any report of condition made to any commission, board, or authority having supervision of a State-chartered credit union and may furnish to any such commission, board, or authority reports of condition made to the Administrator.

(5) Reports required under subchapter I of this chapter shall be so prepared that they can be used for share insurance purposes. To the maximum extent feasible, the Administrator shall use for insurance purposes reports submitted to State regulatory agencies by State-chartered credit unions.

(b) Annual certified statements

On or before January 31 of each insurance year, each insured credit union which became insured prior to the beginning of that year shall file with the Administrator a certified statement showing the total amount of the member accounts in the credit union at the close of the preceding insurance year and the amount of the premium charge for insurance due to the fund for that year, as computed under subsection (c) of this section. The certified statements required to be filed with the

Administrator pursuant to this subsection shall be in such form and shall set forth such supporting information as the Administrator shall require. Each such statement shall be certified by the president of the credit union, or by any officer of the credit union designated by its board of directors, that to the best of his knowledge and belief the statement is true, correct, and complete and in accordance with this subchapter and regulations issued thereunder.

(c) Insurance premiums; premium computation; rebate of premiums; rebate computation

(1) Except as provided in paragraphs (2) and (3) of this subsection, each insured credit union, on or before January 31 of each insurance year, shall pay to the fund a premium charge for insurance equal to one-twelfth of 1 per centum of the total amount of the member accounts in such credit union at the close of the preceding insurance year.

(2) Each credit union which was in existence prior to the enactment of this subchapter and which becomes insured under this subchapter after January 1, of any insurance year shall pay to the fund, for the insurance year in which it becomes insured, a premium charge for insurance equal to one-twelfth of 1 per centum of the total amount of the member accounts in such credit union at the close of the month before the month in which it becomes insured, reduced by an amount proportionate to the number of calendar months elapsed since the beginning of such insurance year and prior to the month in which it becomes insured. Such payment shall be made within thirty days after the date on which the credit union receives the certificate of insurance issued to it under section 1781 of this title.

(3) Each credit union which is chartered after enactment of this subchapter and which becomes insured under this subchapter in the insurance year in which it is chartered shall pay to the fund, for the insurance year in which it is chartered, a premium charge for insurance computed in the following manner;

(A) To the total amount of the member accounts in the credit union at the close of the month in which it becomes insured, add the total amount of such member accounts in the credit union at the close of each succeeding month of the insurance year and divide the total by the number of such months (including the month in which it becomes insured).

(B) From the figure obtained under subparagraph (A), subtract $10,000.

(C) Multiply the figure obtained under subparagraph (B) by one-twelfth of 1 per centum.

(D) Reduce the figure obtained under subparagraph (C) by an amount proportionate to the number of calendar months elapsed since the beginning of such insurance year and prior to the month in which the credit union becomes insured. The figure obtained under this subparagraph is the amount of the premium charge for insurance due to the fund. Such premium charge shall be paid on or before January 31 of the insurance year following the year in which the credit union was chartered.

(4) When any loans to the fund from the Federal Government and the interest thereon have been repaid and the amount in the fund equals or exceeds the normal operating level, the Administrator may reduce the premium charge for insurance, but not below the amount necessary, in his judgment, to maintain the fund at the normal operating level. Any such reduction shall be effective only so long as the amount in the fund equals or exceeds the normal operating level and no loan to the fund from the Federal Government is outstanding.

(5) If in any year expenditures from the fund exceed the income of the fund, the Administrator may require each insured credit union to pay to the fund for such year, in addition to the regular premium charge for insurance payable under paragraph (1), (2), or (3) of this subsection, a special premium charge which shall not exceed an amount equal to the amount of the regular premium charge.

(6)(A) An insured credit union which is closed for liquidation because of insolvency or otherwise is entitled to a rebate of premiums paid by it to the fund. Rebates shall be paid in accordance with regulations prescribed by the Administrator, but no payment of rebate shall be made during any period in which

(i) a loan to the fund from the Federal Government is outstanding; or

(ii) the Administrator determines that the payment would unduly jeopardize the financial condition of the fund.

A credit union otherwise entitled to a rebate of premiums shall not lose its entitlement because payment thereof cannot at any given time be made under the limitations prescribed in clause (i) or (ii).

(B) The amount of rebate of premiums to which a credit union is entitled under subparagraph (A) shall be computed as follows: To the total amount of premiums paid to the fund by the credit union, plus interest on such payments at the average rate of interest earned by the fund on its assets during each of the years in which the payments were made; subtract the sum of

(i) the credit union's prorata share of the fund's administrative expenses during the period in which the credit union had an insured status;

(ii) the credit union's prorata share of the net insurance payments (other than those referred to in clause (iii)) chargeable to the fund for claims arising during such period; and

(iii) the net insurance payments chargeable to the fund for claims arising in connection with the liquidation of the credit union.

A credit union's prorata share of the fund's administrative expenses or net insurance payments for any year (or part thereof) shall be determined by dividing the total amount credited to member and nonmember accounts in the credit union at the end of such year (or part thereof), by the total amount credited to all such accounts in all credit unions having an insured status at the end of such year (or part thereof).

(d) Remedy for failure to report; penalty for failure to file certified statement or pay premium; dispute as to premium charge; prohibition on distribution of assets or dividends while in default

(1) Any insured credit union which fails to make any report of condition under subsection (a) of this section or to file any certified statement required to be filed by it in connection with determining the amount of any premium charge for insurance may be compelled to make such report or to file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Administrator against the credit union and any officer or officers thereof. Any such suit may be brought in any court of the United States of competent jurisdiction in the district or territory in which the principal office of the credit union is located.

(2) Any insured credit union which willfully fails or refuses to file any certified statement or to pay any premium charge for insurance required under this subchapter shall be subject to a penalty of not more than $100 for each day that such violation continues, which penalty the Administrator may recover for his use. The provisions of this paragraph shall not be applicable in any case in which the refusal to pay the premium charge for insurance is due to a dispute between the insured credit union and the Administrator over the amount of the premium charge due to the fund if the credit union deposits security satisfactory to the Administrator for payment of the premium charge upon final determination of the issue.

(3) No insured credit union shall pay any dividends on its member accounts or distribute any of its assets while it remains in default in the payment of any premium charge for insurance due to the fund. Any director or officer of any insured credit union who knowingly participates in the declaration or payment of any such dividend or in any such distribution shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both. The provisions of this paragraph shall not be applicable in any case in which the default is due to a dispute between the credit union and the Administrator over the amount of the premium charge due to the fund if the credit union deposits security satisfactory to the Administrator for payment of the premium charge upon final determination of the issue.

(e) Recovery of unpaid premium; limitations

The Administrator, in a suit brought at law or in equity in any court of competent jurisdiction, shall be entitled to recover from any insured credit union the amount of any unpaid premium charge for insurance lawfully payable by the credit union to the fund, whether or not such credit union shall have made any report of condition under subsection (a) of this section or filed any certified statement required under subsection (b) of this section and whether or not suit shall have been brought to compel the credit union to make any such report or to file any such statement. No action or proceeding shall be brought for the recovery of any premium charge due to the fund, or for the recovery of any amount paid to the fund in excess of the amount due it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made. Where the insured credit union has made or filed with the Administrator a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of any premium charge, the claim shall not be deemed to have accrued until the discovery by the Administrator of the fact that the certified statement is false or fraudulent.

(f) Penalty for failure to comply with section; court determination of failure; remedies not exclusive

Should any Federal credit union fail to make any report of condition under subsection (a) of this section or to file any certified statement required to be filed under subsection (b) of this section or to pay any premium charge for insurance required to be paid under any provision of this subchapter, and should the credit union fail to correct such failure within thirty days after written notice has been given by the Administrator to an officer of the credit union, citing this subsection and stating that the credit union has failed to make any such report or file any such statement or pay any such premium charges as required by law, all the rights, privileges, and franchises of the credit union granted to it under subchapter I of this chapter shall be thereby forfeited. Whether or not the penalty provided in this subsection has been incurred shall be determined and adjudged by any court of the United States of competent jurisdiction in a suit brought for that purpose in the district or territory in which the principal office of such credit union is located, under direction of and by the Administrator in his own name, before the credit union shall be declared dissolved. The remedies provided in this subsection and in subsections (d) and (e) of this section shall not be construed as limiting any other remedies against any insured credit union but shall be in addition thereto.

(g) Records

Each insured credit union shall maintain such records as will readily permit verification of the correctness of its reports of condition, certified statements, and premium charges for insurance. However, no insured credit union shall be required to retain such records for such purpose for a period in excess of five years from the date of the making of any such report, the filing of any such statement, or the payment of any premium charge, except that when there is a dispute between the insured credit union and the Administrator over the amount of any premium charge for insurance the credit union shall retain such records until final determination of the issue.

(h) Definitions

For the purposes of this section—

(1) the term "insurance year" means the period beginning on January 1 and ending on the following December 31, both dates inclusive;

(2) the term "normal operating level," when applied to the Fund, means an amount equal to 1 per centum of the aggregate amount of the member accounts, in all insured credit unions; and

(3) the term "members accounts" when applied to the premium charge for insurance of the accounts of federally insured credit

unions shall not include amounts in excess of the insured account limit set forth in section 1787(c) of this title.

(June 26, 1934, ch. 750, title II, § 202, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 995, and amended Aug. 22, 1974, Pub. L. 93-383, title VII, § 727, 88 Stat. 720.)

AMENDMENTS

1974—Subsec. (h)(3). Pub. L. 93-383 added subsec. (h)(3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1783, 1786 of this title.

§ 1783. National Credit Union Share Insurance Fund

(a) Creation; use of fund

There is hereby created in the Treasury of the United States a National Credit Union Share Insurance Fund which shall be used by the Administrator as a revolving fund for carrying out the purposes of this subchapter. Money in the fund shall be available upon requisition by the Administrator, without fiscal year limitation, for making payments of insurance under section 1787 of this title, for providing assistance and making expenditures under section 1788 of this title in connection with the liquidation or threatened liquidation of insured credit unions, and for such administrative and other expenses incurred in carrying out the purposes of this subchapter as he may determine to be proper.

(b) Deposit of premium charges, fees and penalties

All premium charges for insurance paid pursuant to the provisions of section 1782 of this title and all fees for examinations and all penalties collected by the Administrator under any provision of this subchapter shall be deposited in the National Credit Union Share Insurance Fund.

(c) Investment authorization

The Administrator may authorize the Secretary of the Treasury to invest and reinvest such portions of the fund as the Administrator may determine are not needed for current operations in any interest-bearing securities of the United States or in any securities guaranteed as to both principal and interest by the United States or in bonds or other obligations which are lawful investments for fiduciary, trust, and public funds of the United States, and the income therefrom shall constitute a part of the fund.

(d) Loans to fund, limitation and terms; interest accrual; determination of interest rate

(1) If, in the judgment of the Administrator, a loan to the fund is required at any time for carrying out the purposes of this subchapter, the Secretary of the Treasury shall make the loan, but loans under this paragraph shall not exceed in the aggregate $100,000,000 outstanding at any one time. Except as otherwise provided in this subsection and in subsection (e) of this section, each loan under this paragraph shall be made on such terms as may be fixed by agreement between the Administrator and the Secretary of the Treasury.

(2) Interest shall accrue to the Treasury on the amount of any outstanding loans made to the fund pursuant to paragraph (1) of this subsection on the basis of the average daily amount of such outstanding loans determined at the close of each fiscal year with respect to such year, and the Administrator shall pay the interest so accruing into the Treasury as miscellaneous receipts annually from the fund. The Secretary of the Treasury shall determine the applicable interest rate in advance by calculating the average yield to maturity (on the basis of daily closing market bid quotations during the month of September of the preceding fiscal year) on outstanding marketable public debt obligations of the United States having a maturity date of five or less years from the first day of such month of September and by adjusting such yield to the nearest one-eighth of 1 per centum.

(3) For the purpose of making loans under paragraph (1) of this subsection, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are hereby extended to include such loans. All loans and repayments under this section shall be treated as public debt transactions of the United States.

(e) Excess funds credited against loans

So long as any loans to the fund are outstanding, the Administrator shall from time to time, not less often than annually, determine whether the balance in the fund is in excess of the amount which, in his judgment, is needed to meet the requirements of the fund and shall pay such excess to the Secretary of the Treasury, to be credited against the loans to the fund.

(June 26, 1934, ch. 750, title II, § 203, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 999, and amended Apr. 21, 1976, Pub. L. 94-273, § 2(4), 90 Stat. 375.)

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (d)(3), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

AMENDMENTS

1976—Subsec. (d)(2). Pub. L. 94-273 substituted "September" for "June" wherever appearing therein.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED FISCAL YEAR

Fiscal year transition period of July 1, 1976, through Sept. 30, 1976, deemed fiscal year for purposes of subsec. (d) of this section, see section 201(25) of Pub. L. 94-274, set out as a note under section 343 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1781 of this title.

§ 1784. Examination of insured credit unions

(a) Examiners and claim agents; powers; report by examiner; jurisdiction of court

The Administrator shall appoint examiners who shall have power, on his behalf, to exam-

ine any insured credit union, any credit union making application for insurance of its member accounts, or any closed insured credit union whenever in the judgment of the Administrator an examination is necessary to determine the condition of any such credit union for insurance purposes. Each examiner shall have power to make a thorough examination of all of the affairs of the credit union and shall make a full and detailed report of the condition of the credit union to the Administrator. The Administrator in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured member accounts. Each claim agent shall have power to administer oaths and affirmations, to examine and to take and preserve testimony under oath as to any matter in respect to claims for insured accounts, and to issue subpenas and subpenas duces tecum and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the principal office of the credit union is located or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

(b) Power of Administrator; jurisdiction of court

In connection with examinations of insured credit unions, the Administrator, or his designated representatives, shall have power to administer oaths and affirmations, to examine and to take and preserve testimony under oath as to any matter in respect of the affairs of any such credit union, and to issue subpenas and subpenas duces tecum and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States Court in any territory in which the principal office of the credit union is located or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

(c) Court orders enforcing subpenas; immunity

In cases of refusal to obey a subpena issued to, or contumacy by, any person, the Administrator may invoke the aid of any court of the United States within the jurisdiction of which such hearing, examination, or investigation is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, records, or other papers. Such court may issue an order requiring such person to appear before the Administrator, or before a person designated by him, there to produce records, if so ordered, or to give testimony touching the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or carries on business or wherever he may be found. No person shall be excused from attending and testifying or from producing books, records, or other papers in obedience to a subpena issued under the authority of this subchapter on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to penalty or forfeiture, but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify or produce evidence, documentary or otherwise, after having claimed his privilege against self-incrimination, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(d) Administration acceptance of State board report; reports of Administrator furnished to State board

The Administration may accept any report of examination made by or to any commission, board, or authority having supervision of a State-chartered credit union and may furnish to any such commission, board, or authority reports of examination made on behalf of the Administrator.

(June 26, 1934, ch. 750, title II, § 204, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 1001.)

§ 1785. Requirements governing insured credit unions

(a) Advertisement of insured status; exemptions; regulation of signs

Every insured credit union shall display at each place of business maintained by it a sign or signs indicating that its member accounts are insured by the Administrator and shall include in all of its advertisements a statement to the effect that its member accounts are insured by the Administrator. The Administrator may exempt from this requirement advertisements which do not relate to member accounts or advertisements in which it is impractical to include such a statement. The Administrator shall prescribe by regulation the forms of such signs, the manner of display, the substance of any such statement, and the manner of use.

(b) Restrictions

(1) Except with the prior written approval of the Administrator, no insured credit union shall—

(A) merge or consolidate with any noninsured credit union or institution;

(B) assume liability to pay any member accounts in, or similar liabilities of, any noninsured credit union or institution;

(C) transfer assets to any noninsured credit union or institution in consideration of the assumption of liabilities for any portion of the member accounts in such insured credit union; or

(D) convert into a noninsured credit union or institution.

(2) Except with the prior written approval of the Administrator, no insured credit union shall merge or consolidate with any other insured credit union or, either directly or indirectly, acquire the assets of, or assume liability to pay any member accounts in, any other insured credit union.

(c) Considerations for waiver or enforcement of restrictions

In granting or withholding approval or consent under subsection (b) of this section, the Administrator shall consider—

(1) the history, financial condition, and management policies of the credit union;

(2) the adequacy of the credit union's reserves;

(3) the economic advisability of the transaction;

(4) the general character and fitness of the credit union's management;

(5) the convenience and needs of the members to be served by the credit union; and

(6) whether the credit union is a cooperative association organized for the purpose of promoting thrift among its members and creating a source of credit for provident or productive purposes.

(d) Restrictions on persons convicted of any criminal offense involving dishonesty or breach of trust; penalty

Except with the written consent of the Administrator, no person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the credit union involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Administrator may recover for his use.

(e) Security standards; reports; penalty

(1) The Administrator shall promulgate rules establishing minimum standards with which each insured credit union must comply with respect to the installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts.

(2) The rules shall establish the time limits within which insured credit unions shall comply with the standards and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures.

(3) An insured credit union which violates a rule promulgated pursuant to this subsection shall be subject to a civil penalty which shall not exceed $100 for each day of the violation.

(June 26, 1934, ch. 750, title II, § 205, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 1002.)

§ 1786. Termination of insured credit union status; cease and desist orders; removal or suspension from office; procedure

(a) Termination of insurance

(1) Any insured credit union other than a Federal credit union may, upon not less than ninety days' written notice to the Administrator and upon the affirmative vote of a majority of its members within one year prior to the giving of such notice, terminate its status as an insured credit union.

(2) Any insured credit union, other than a Federal credit union, which has obtained a new certificate of insurance from a corporation authorized and duly licensed to insure member accounts may upon not less than ninety days' written notice to the Administrator convert from status as an insured credit union under this chapter: *Provided,* That at the time of giving notice to the Administrator the provisions of paragraph (b)(1) of this section are not being invoked against the credit union.

(b) Unsound condition of credit union; notice to correct condition; hearing; judicial review

(1) Whenever, in the opinion of the Administrator, any insured credit union is engaging or has engaged in unsafe or unsound practices in conducting the business of such credit union, or is in an unsafe or unsound condition to continue operations as an insured credit union, or is violating or has violated an applicable law, rule, regulation, order, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union, or is violating or has violated any written agreement entered into with the Administrator, the Administrator shall serve upon the credit union a statement with respect to such practices or conditions or violations for the purpose of securing the correction thereof. In the case of an insured State-chartered credit union, the Administrator shall send a copy of such statement to the commission, board, or authority, if any, having supervision of such credit union. Unless such correction shall be made within one hundred and twenty days after service of such statement, or within such shorter period of not less than twenty days after such service as the Administrator shall require in any case where he determines that the insurance risk with respect to such credit union could be unduly jeopardized by further delay in the correction of such practices or conditions or violations, or as the commission, board, or authority having supervision of such credit union, if any, shall require in the case of an insured State-chartered credit union, the Administrator, if he shall determine to proceed further, shall give to the credit union not less than thirty days' written notice of his intention to terminate the status of the credit union as an insured credit union. Such notice shall contain a statement of the facts constituting the alleged unsafe and unsound practices or conditions or violations and shall fix a time and place for a hearing thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of the credit union. Unless the credit union shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured credit union. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any unsafe or unsound practice or condition or violation specified in the notice has been established and has not been corrected within the time above-prescribed in which to make such correction, the Administrator may issue and serve upon the credit union an order terminating its status as in insured credit union on a date subsequent to the date of such finding and subsequent to the expiration of the time specified in the notice.

(2) Any credit union whose insured status has been terminated by order of the Administrator under this subsection shall have the right of judicial review of such order only to the same extent as provided for the review of orders under subsection (i) of this section.

(c) Notice to members of termination of insured status

In the event of the termination of a credit union's status as an insured credit union as provided under subsection (a)(1) or (b) of this section, the credit union shall give prompt and reasonable notice to all of its members whose accounts are insured that it has ceased to be an insured credit union. It may include in such notice a statement of the fact that member accounts insured on the effective date of such termination, to the extent not withdrawn, remain insured for one year from the date of such termination, but it shall not further represent itself in any manner as an insured credit union. In the event of failure to give the notice as herein provided to members whose accounts are insured, the Administrator is authorized to give reasonable notice.

(d) Continuation of insurance for one year; approval of conversion of status; procedure subsequent to approval; reduction of premium charges

(1) After the termination of the insured status of any credit union as provided under subsection (a) or (b) of this section, insurance of its member accounts to the extent that they were insured on the effective date of such termination, less any amounts thereafter withdrawn which reduce the accounts below the amount covered by insurance on the effective date of such termination, shall continue for a period of one year, but no shares issued by the credit union or deposits made after the date of such termination shall be insured by the Administrator. The credit union shall continue to pay premiums to the Administrator during such period as in the case of an insured credit union and the Administrator shall have the right to examine such credit union from time to time during the period during which such insurance continues. Such credit union shall, in all other respects, be subject to the duties and obligations of an insured credit union for the period of one year from the date of such termination. In the event that such credit union shall be closed for liquidation within such period of one year, the Administrator shall have the same powers and rights with respect to such credit union as in the case of an insured credit union.

(2) No credit union shall convert from status as an insured credit union under this chapter as provided under subsection (a)(2) of this section until the proposition for such conversion has been approved by a majority of all the directors of the credit union, and by affirmative vote of a majority of the members of the credit union who vote on the proposition in a vote in which at least 20 per centum of the total membership of the credit union participates. Following approval by the directors, written notice of the proposition and of the date set for the membership vote shall be delivered in person to each member, or mailed to each member at the address for such member appearing on the records of the credit union, not more than thirty nor less than seven days prior to such date. The membership shall be given the opportunity to vote by mail ballot. If the proposition is approved by the membership, prompt and reasonable notice of insurance conversion shall be given to all members.

(3) In the event of a conversion of a credit union from status as an insured credit union under this chapter as provided under subsection (a)(2) of this section, premium charges payable under section 1782(c) of this title shall be reduced by an amount proportionate to the number of calendar months for which the converting credit union will no longer be insured under this chapter. As long as a converting credit union remains insured under this chapter it shall remain subject to all of the provisions of this subchapter.

(e) Opinion of Administrator as to unsound condition of credit union; notice of charges; hearing; order to cease and desist; judicial review

(1) If, in the opinion of the Administrator, any insured credit union or any credit union any of the member accounts of which are insured is engaging or has engaged, or the Administrator has reasonable cause to believe that the credit union is about to engage, in an unsafe or unsound practice in conducting the business of such credit union, or is violating or has violated, or the Administrator has reasonable cause to believe that the credit union is about to violate, a law, rule, or regulation, or any condition imposed in writing by the Administrator in connection with the granting of any application or other request by the credit union, or any written agreement entered into with the Administrator, the Administrator may issue and serve upon the credit union a notice of charges in respect thereof, the notice shall contain a statement of the facts constituting the alleged unsafe or unsound practice or practices or violation or violations and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the credit union. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the Administrator at the request of the credit union. Unless the credit union shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any unsafe or unsound practice or violation specified in the notice of charges has been established, the Administrator may issue and serve upon the credit union an order to cease and desist from any such practice or violation. Such order may, by provisions which may be mandatory or otherwise, require the credit union and its directors, officers, committee members, employees, and agents to cease and desist from the same, and further, to take affirmative action to correct the conditions resulting from any such practice or violation.

(2) A cease-and-desist order shall become effective at the expiration of thirty days after service of such order upon the credit union concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein) and shall remain effective enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

(f) Temporary cease and desist order; injunctive procedure

(1) Whenever the Administrator shall determine that the unsafe or unsound practice or practices or violation or threatened violation specified in the notice of charges served upon the credit union pursuant to subsection (e)(1) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the credit union, or is likely to otherwise seriously prejudice the interests of its insured members, the Administrator may issue a temporary order requiring the credit union to cease and desist from any such practice or violation. Such order shall become effective upon service upon the credit union and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection, shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the Administrator shall dismiss the charges specified in such notice or, if a cease-and-desist order is issued against the credit union, until the effective date of any such order.

(2) Within ten days after the credit union concerned has been served with a temporary cease-and-desist order, the credit union may apply to the United States district court for the judicial district in which the principal office of the credit union is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the credit union under subsection (e)(1) of this section, and such court shall have jurisdiction to issue such injunction.

(3) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order, the Administrator may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the principal office of the credit union is located for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

(g) Removal of director, officer, or committee member; notice; hearing; judicial review

(1) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the credit union, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director, officer, or committee member and the Administrator determines that the credit union has suffered or will probably suffer substantial financial loss or other damage or that the interests of its insured members could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director, officer, or committee member, the Administrator may serve upon such director, officer, or committee member a written notice of his intention to remove him from office.

(2) Whenever, in the opinion of the Administrator, any director, officer, or committee member of an insured credit union, by conduct or practice with respect to another insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director, officer, or committee member, and, whenever, in the opinion of the Administrator, any other person participating in the conduct of the affairs of an insured credit union, by conduct or practice with respect to such credit union or other insured credit union or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such insured credit union, the Administrator may serve upon such director, officer, committee member, or other person a written notice of his intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of such credit union.

(3) In respect to any director, officer, or committee member of an insured credit union or any other person referred to in paragraph (1) or (2) of this subsection, the Administrator may, if he deems it necessary for the protection of the credit union or the interests of its insured members, by written notice to such effect served upon such director, officer, committee member, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by paragraph (5) of this subsection, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (2) of this subsection and until such time as the Administrator shall dismiss the charges specified in such notice or, if an order of removal and/or prohibition is issued against the director, officer, committee member, or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the credit union of which he is a director, officer, or committee member or in the conduct of whose affairs he has participated.

(4) A notice of intention to remove a director, officer, committee member, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured credit union shall contain a statement of the facts constituting the grounds therefor and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice unless an earlier or a later date is set by the Administrator at the request of such

director, officer, committee member, or other person, and for good cause shown, or at the request of the Attorney General of the United States. Unless such director, officer, committee member, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition. In the event of such consent, or if upon the record made at any such hearing the Administrator shall find that any of the grounds specified in such notice has been established, the Administrator may issue such orders of suspension or removal from office and/or prohibition from participation in the conduct of the affairs of the credit union as he may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such credit union and the director, officer, committee member, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court.

(5) Within ten days after any director, officer, committee member, or other person has been suspended from office and/or prohibited from participation in the conduct of the affairs of an insured credit union under paragraph (3) of this subsection, such director, officer, committee member, or other person may apply to the United States district court for the judicial district in which the principal office of the credit union is located, or the United States District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, committee member, or other person under paragraph (1) or (2) of this subsection, and such court shall have jurisdiction to stay such suspension and/or prohibition.

(h) Suspension of director, officer, or committee member charged with commission of a felony; removal from office; quorum of directors; temporary directors

(1) Whenever any director, officer, or committee member of an insured credit union, or other person participating in the conduct of the affairs of such credit union, is charged in any complaint authorized by a United States attorney or in any information or indictment, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon such director, officer, committee member, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the credit union. A copy of such notice shall also be served upon the credit union. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Administrator. In the event that a judgment of conviction with respect to such offense is entered against such director, officer, committee member, or other person, and at such time as such judgment is not subject to further appellate review, the Administrator may issue and serve upon such director, officer, committee member, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the credit union except with the consent of the Administrator. A copy of such order shall also be served upon such credit union, whereupon such director, officer, or committee member shall cease to be a director, officer, or committee member of the such institution. A finding of not guilty or other disposition of the charge shall not preclude the Administrator from thereafter instituting proceedings to remove such director, officer, committee member, or other person from office and/or to prohibit further participation in the affairs of the credit union pursuant to paragraph (1) or (2) of subsection (g) of this section.

(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a Federal credit union less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there shall be a quorum of the board of directors. In the event all of the directors of a Federal credit union are suspended pursuant to this section, the Administrator shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended cease to be directors of the credit union and their respective successors have been elected by the members at an annual or special meeting and have taken office. Directors appointed temporarily by the Administrator shall, within thirty days following their appointment, call a special meeting for the election of new directors, unless during the thirty-day period (A) the regular annual meeting is scheduled, or (B) the suspensions giving rise to the appointment of temporary directors are terminated.

(i) Jurisdiction of hearing; procedure; judicial review

(1) Any hearing provided for in this section shall be held in the Federal judicial district or in the territory in which the principal office of the credit union is located, unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5. Such hearing shall be private unless the Administrator, in his discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the Administrator has notified the parties that the case has been submitted to him for final decision, he shall render his decision (which shall include findings of fact upon which his decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection (i). Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (2) of this subsection, and thereafter until the record in the

proceeding has been filed as so provided, the Administrator may at any time, upon such notice and in such manner as he may deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Administrator may modify, terminate, or set aside any such order with permission of the court.

(2) Any party to the proceeding, or any person required by an order issued under this section to cease and desist from any of the practices or violations stated therein, may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the credit union or the director, officer, committee member, or other person concerned or an order issued under subsection (h) of this section) by filing in the court of appeals of the United States for the circuit in which the principal office of the credit union is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of said paragraph (1), be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator. Review of such proceedings shall be had as provided in chapter 7 of title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

(3) The commencement of proceedings for judicial review under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator.

(j) Jurisdiction of court to enforce Administrator's order

The Administrator may in his discretion apply to the United States district court, or the United States court of any territory within the jurisdiction of which the principal office of the credit union is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such courts shall have jurisdiction and power to order and require compliance therewith. However, except as otherwise provided in this section, no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section or to review, modify, suspend, terminate, or set aside any such notice or order.

(k) Penalty for any removed director, officer, or committee member who participates in credit union business

Any director, officer, or committee member, or former director, officer, or committee member, of an insured credit union or of a credit union any of the member accounts of which are insured, or any other person against whom there is outstanding and effective and notice or order (which is an order which has become final) served upon such director, officer, committee member, or other person under subsections (g)(3), (g)(4), or (h) of this section and who (i) participates in any manner in the conduct of the affairs of the credit union involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such credit union, or (ii) without the prior written approval of the Administrator votes for a director, serves or acts as a director, officer, committee member, or employee of any credit union, shall upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

(l) Definitions

As used in this section (1) the terms "cease-and-desist order which has become final" and "order which has become final" means a cease-and-desist order, or an order issued by the Administrator with the consent of the credit union or the director, officer, committee member, or other person concerned, or with respect to which no petition for review of the action of the Administrator has been filed and perfected in a court of appeals as specified in paragraph (2) of subsection (i) of this section, or with respect to which the action of the court in which said petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in said paragraph, or an order issued under subsection (h) of this section, and (2) the term "violation" includes, without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(m) Notice or order to State board supervising State-chartered credit union

Any service required or authorized to be made by the Administrator under this section may be made by registered mail or in such other manner reasonably calculated to give actual notice as the Administrator may by regulation or otherwise provide. Copies of any notice or order served by the Administrator upon any State-chartered credit union or any director, officer, or committee member thereof or other person participating in the conduct of its affairs, pursuant to the provisions of this section, shall also be sent to the commission, board, or authority, if any, having supervision of such credit union.

(n) Notice of proceedings to State board supervising State-chartered credit union; effect of corrective action by State board; attack on validity of notice or order

In connection with any proceeding under subsection (e), (f)(1), or (g) of this section involving an insured State-chartered credit union or any director, officer, committee member, or other person participating in the conduct of its affairs, the Administrator shall provide the commission, board, or authority, if any, having supervision of such credit union, with notice of his intent to institute such a proceeding and the grounds thereof. Unless within such time as the Administrator deems appropriate in the

light of the circumstances of the case (which time must be specified in the notice prescribed in the preceding sentence) satisfactory corrective action is effectuated by action of such commission, board, or authority, the Administrator may proceed as provided in this section. No credit union or other party who is the subject of any notice or order issued by the Administrator under this section shall have standing to raise the requirements of this subsection as ground for attacking the validity of any such notice or order.

(o) Proceedings, powers of Administrator; court enforcement of subpenas; witness fees; expenses and attorneys' fees

In the course of or in connection with any proceeding under this section, the Administrator, or any designated representative thereof, including any person designated to conduct any hearing under this section, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum, and the Administrator is empowered to make rules and regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceedings instituted under this section by an insured credit union or a director, officer, or committee member thereof may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper, and such expenses and fees shall be paid by the credit union or from its assets.

(June 26, 1934, ch. 750, title II, § 206, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 1003, and amended Aug. 22, 1974, Pub. L. 93-383, title VII, § 728, 88 Stat. 720.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383, § 728(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 93-383, § 728(b), added "(1)" following "(a)".

Subsec. (d). Pub. L. 93-383, § 728(c), designated existing provisions as par. (1) and added pars. (2) and (3).

§ 1787. Payment of insurance

(a) Liquidation by Administrator; notice to claimants; subrogation; dividend payments; bond; appointment of agent; fees to be fixed by Administrator

(1) Upon his finding that a Federal credit union insured under this subchapter is bankrupt or insolvent, the Administrator shall close such credit union for liquidation and appoint himself liquidating agent therefor.

(2) Notwithstanding any other provisions of law, it shall be the duty of the Administrator as such liquidating agent to cause notice to be given, by advertisement in such newspapers as he may direct, to all persons having claims against such closed credit union, to present their claims within four months from the date such advertisement first appeared; to realize upon the assets of such closed credit union, having due regard to the condition of credit in the locality; and to wind up the affairs of such closed credit union in conformity with the provisions of law relating to the liquidation of bankrupt or insolvent Federal credit unions, except as herein otherwise provided. The Administrator as such liquidating agent shall pay to himself for his own account such portion of the amounts realized from such liquidation as he shall be entitled to receive on account of his subrogation to the claims of members, and he shall pay to members and other creditors the net amounts available for distribution to them. The Administrator as such liquidating agent, however, may, in his discretion, pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to the first sentence of this paragraph, and no liability shall attach to the Administrator himself for as such liquidating agent by reason of any such payment for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment.

(3) Notwithstanding any other provision of law, the Administrator as liquidating agent of a closed Federal credit union insured under this subchapter shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist him in his duties as such liquidating agent. All fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Administrator and may be paid by him out of funds coming into his possession as such liquidating agent.

(b) Administrator as liquidating agent of State-chartered credit union

Whenever any insured State-chartered credit union shall have been closed by action of its board of directors or by the commission, board, or authority having supervision of such credit union, as the case may be, or by a court of competent jurisdiction, on account of bankruptcy or insolvency, the Administrator shall accept appointment as liquidating agent therefor, if such appointment is tendered by the commission, board, or authority having supervision of such credit union, or by a court of competent jurisdiction, and is authorized or permitted by State law. With respect to any such State-chartered credit union, the Administrator as such liquidating agent shall possess all the rights, powers, and privileges granted by State law to a liquidating agent of a State-chartered credit

union. For the purposes of this subsection, the term "liquidating agent" includes a liquidating agent, receiver, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a credit union.

(c) Payment of insured accounts; extent of insurance coverage; proof of claims; insurance of public funds

(1) Whenever an insured credit union shall have been closed for liquidation on account of bankruptcy or insolvency, payment of the insured accounts in such credit union shall be made by the Administrator as soon as possible, subject to the provisions of subsection (d) of this section. Subject to the provisions of paragraph (2), for the purposes of this subsection, the term "insured account" means the total amount of the account in the member's name (after deducting offsets) less any part thereof which is in excess of $40,000. Such amount shall be determined according to such regulations as the Administrator may prescribe, and, in determining the amount due to any member, there shall be added together all accounts in the credit union maintained by him for his own benefit either in his own name or in the names of others. The Administrator may define, with such classifications and exceptions as he may prescribe, the extent of the insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy. The Administrator, in his discretion, may require proof of claims to be filed before paying the insured accounts, and in any case where he is not satisfied as to the validity of a claim for an insured account, he may require the final determination of a court of competent jurisdiction before paying such claim.

(2)(A) Notwithstanding any limitation in this chapter or in any other provision of law relating to the amount of insurance available for the account of any one depositor or member, in the case of a depositor or member who is—

(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this subchapter;

(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this subchapter in such State;

(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this subchapter in the District of Columbia; or

(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Panama Canal Zone, or of any territory or possession of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing the same in a credit union insured in accordance with this subchapter in the Commonwealth of Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively;

his account shall be insured in an amount not to exceed $100,000 per account.

(B) The Administrator may limit the aggregate amount of funds that may be invested or deposited in any credit union insured in accordance with this subchapter by any depositor or member referred to in subparagraph (A) on the basis of the size of any such credit union in terms of its assets.

(d) Administrator's right of subrogation; right of subrogation to be recognized by State in the case of a State-chartered credit union

In the case of a closed Federal credit union, the Administrator, upon the payment to any member as provided in subsection (c) of this section, shall be subrogated to all rights of the member against such closed credit union to the extent of such payment. In the case of any other closed insured credit union, the Administrator shall not make any payment to any member until the right of the Administrator to be subrogated to the rights of such member on the same basis as provided in the case of a closed Federal credit union shall have been recognized either by express provision of State law, by allowance of claims by the commission, board, or authority having supervision of such credit union, by assignment of claims by members, or by any other effective method. In the case of any closed insured credit union, such subrogation shall include the right on the part of the Administrator to receive the same dividends from the proceeds of the assets of such closed credit union as would have been payable to the member on a claim for the insured account, but such member shall retain his claim for any uninsured portion of his account. The rights of members and other creditors of any State-chartered credit union shall be determined in accordance with the applicable provisions of State law.

(e) Payment; discharge of liability

Payment of an insured account to any person by the Administrator shall discharge the Administrator to the same extent that payment to such person by the closed insured credit union would have discharged it from liability for the insured account.

(f) Undisclosed names

Except as otherwise prescribed by the Administrator, the Administrator shall not be required to recognize as the owner of any portion of an account appearing on the records of the closed credit union under a name other than that of the claimant any person whose name or interest as such owner is not disclosed on the records of such closed credit union as part owner of such account, if such recognition would increase the aggregate amount of the insured accounts in such closed credit union.

(g) Withholding of payment due to liability of credit union member

The Administrator may withhold payment of such portion of the insured account of any member of a closed credit union as may be required to provide for the payment of any direct or indirect liability of such member to be closed credit union or its liquidating agent, which is

not offset against a claim due from such credit union, pending the determination and payment of such liability by such member or any other person liable therefor.

(h) Unclaimed insured accounts; limitations

If, after the Administrator shall have given at least four months' notice to the member by mailing a copy thereof to his last-known address appearing on the records of the closed credit union, any member of the closed credit union shall fail to claim his insured account from the Administrator within 18 months after the appointment of the liquidating agent for the closed credit union, all rights of the member against the Administrator with respect to the insured accounts shall be barred, and all rights of the member against the closed credit union, or the estate to which the Administrator may have become subrogated, shall thereupon revert to the member.

(i) Sale of assets; security for loans; approval of court where Administrator is acting as liquidating agent; agreements affecting interest of Administrator in any asset acquired by him

(1) Liquidating agents of insured credit unions closed for liquidation on account of bankruptcy or insolvency may offer the assets of such credit unions for sale to the Administrator or as security for loans from the Administrator, upon receiving permission from the commission, board, or authority having supervision of such credit union, in the case of an insured State-chartered credit union, in accordance with express provisions of State law. The proceeds of every such sale or loan shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such credit unions. The Administrator, in his discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured credit union closed for liquidation on account of bankruptcy or insolvency, but in any case in which the Administrator is acting as liquidating agent of a closed insured credit union, no such loan or purchase shall be made without the approval of a court of competent jurisdiction.

(2) No agreement which tends to diminish or defeat the right, title, or interest of the Administrator in any asset acquired by him under this subsection, either as security for a loan or by purchase, shall be valid against the Administrator unless such agreement—

(A) shall be in writing;

(B) shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

(C) shall have been approved by the board of directors of the credit union, which approval shall be reflected in the minutes of such board; and

(D) shall have been, continuously, from the time of its execution, an official record of the credit union.

(June 26, 1934, ch. 750, title II, § 207, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 1010, and amended Oct. 28, 1974, Pub. L. 93-495, title I, §§ 101(c), 104(a), 88 Stat. 1501, 1503.)

AMENDMENTS

1974—Subsec. (c)(1). Pub. L. 93-495, §§ 101(c)(1), (2), 104(a), redesignated existing provisions as subsec. (c)(1), and, as so redesignated, substituted "Subject to the provisions of paragraph (2), for the purposes of this subsection" for "For the purposes of this subsection", and substituted "$40,000" for "$20,000". As enacted section 104(a) of Pub. L. 93-495 amended the first sentence; however the amendment was executed to the second sentence editorially since this would appear to be the probable intent of Congress.

Subsec. (c)(2). Pub. L. 93-495, § 101(c)(3), added subsec. (c)(2).

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment of subsec. (c)(1) by section 101(c)(1), (2) of Pub. L. 93-495 see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

Section 104(b), (c) of Pub. L. 93-495 provided that:

"(b) The amendment made by this section [which inserted provisions authorizing increased ceiling on deposit insurance by amending subsec. (c)(1) of this section] is not applicable to any claim arising out of the closing of a credit union for liquidation on account of bankruptcy or insolvency pursuant to section 207 of title II of the Federal Credit Union Act (12 U.S.C. 1787) prior to the effective date of this section.

"(c) The amendment made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act [Oct. 28, 1974.]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1757, 1782, 1783 of this title.

§ 1788. Special assistance to avoid liquidation

(a) Loans; purchase of assets; accounts; agreements affecting interest of Administrator in any asset acquired by him

(1) In order to reopen a closed insured credit union or in order to prevent the closing of an insured credit union which the Administrator has determined is in danger of closing or in order to assist in the voluntary liquidation of a solvent credit union, the Administrator, in his discretion, is authorized to make loans to, or purchase the assets of, or establish accounts in such insured credit union upon such terms and conditions as he may prescribe. Except with respect to the voluntary liquidation of a solvent credit union, such loans shall be made and such accounts shall be established only when, in the opinion of the Administrator, such action is necessary to protect the fund or the interests of the members of the credit union.

(2) Whenever in the judgment of the Administrator such action will reduce the risk or avert a threatened loss to the fund and will facilitate a merger or consolidation of an insured credit union with another insured credit union, or will facilitate the sale of the assets of an open or closed insured credit union to and assumption of its liability by another person, the Administrator may, upon such terms and conditions as he may determine, make loans secured in whole or in part by assets of an open or closed insured credit union, which loans may be in subordination to the rights of members and creditors of such credit union, or the Administrator may purchase any of such assets or may guarantee any person against loss by reason of his assuming the liabilities and purchasing the assets of an open or closed insured credit union. For purposes of this paragraph, the term "person"

means any credit union, individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(3) No agreement which tends to diminish or defeat the right, title, or interest of the Administrator, in any asset acquired by him under this subsection, either as security for a loan or by purchase, shall be valid against the Administrator unless such agreement—

(A) shall be in writing;

(B) shall have been executed by the credit union and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the credit union;

(C) shall have been approved by the board of directors of the credit union, which approval shall be reflected in the minutes of such board; and

(D) shall have been continuously, from the time of its execution, an official record of the credit union.

(b) Protection of Fund

For the protection of the Fund, the Administrator, without regard to the Federal Property and Administrative Services Act of 1949, may—

(1) deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, sell for cash or credit, or lease, in his discretion, any real property acquired or held by him under this section; and

(2) assign or sell at public or private sale, or otherwise dispose of, any evidence of debt, contract, claim, personal property, or security assigned to or held by him under this section.

Section 5 of title 41 shall not apply to any purchase or contract for services or supplies made or entered into by the Administrator under this section if the amount thereof does not exceed $1,000, or to any contract for hazard insurance on any real property acquired or held by him under this section.

(c) Power of Administrator in connection with liquidation subject to court or public body regulation

In connection with the liquidation of any insured credit union, the Administrator shall have the power to carry on the business of and collect all obligations to the credit union, to settle, compromise, or release claims in favor of or against the credit union, and to do all other things that may be necessary in connection therewith, subject to the regulation of the court or other public body having jurisdiction over the matter.

(d) Money paid into Fund

Money received by the Administrator in carrying out this section shall be paid into the Fund.

(June 26, 1934, ch. 750, title II, § 208, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 1013, and amended Dec. 23, 1971, Pub. L. 92-221, § 3, 85 Stat. 797; Aug. 22, 1974, Pub. L. 93-383, title VII, § 729, 88 Stat. 721.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b), is act June 30, 1949, ch. 288, 63 Stat. 377. The provisions of that act relating to management and disposal of Government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40, and Tables volume.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-383 added provisions relating to the voluntary liquidation of a solvent credit union and struck out provisions subordinating loans and accounts to the rights of members and creditors of the credit union.

1971—Subsec. (a)(2). Pub. L. 92-221 substituted "assumption of its liability by another person" for "assumption of its liability by another insured credit union" and "may guarantee any person against loss by reason of his" for "may guarantee any other insured credit union against loss by reason of its" and added definition of "person" as that term is used in par. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1783 of this title.

§ 1789. Administrative provisions

(a) In carrying out the purposes of this subchapter, the Administrator may—

(1) make contracts;

(2) sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Administrator shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy. The Administrator may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect, except that any such suit to which the Administrator is a party in his capacity as liquidating agent of a State-chartered credit union and which involves only the rights or obligations of members, creditors, and such State credit union under State law shall not be deemed to rise under the laws of the United States. No attachment or execution shall be issued against the Administrator or his property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Administrator shall designate an agent upon whom service of process may be made in any State, territory, or jurisdiction in which any insured credit union is located;

(3) pursue to final disposition by way of compromise or otherwise claims both for and against the United States (other than tort claims, claims involving administrative expenses, and claims in excess of $5,000 arising out of contracts for construction, repairs, and the purchase of supplies and materials) which are not in litigation and have not been referred to the Department of Justice;

(4) to appoint such officers and employees as are not otherwise provided for in this chapter, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such of-

ficers or employees. Nothing in this chapter or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Administration of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof;

(5) employ experts and consultants or organizations thereof, as authorized by section 3109 of title 5;

(6) prescribe the manner in which his general business may be conducted and the privileges granted to him by law may be exercised and enjoyed;

(7) exercise all powers specifically granted by the provisions of this subchapter and such incidental powers as shall be necessary to carry out the power so granted;

(8) make examinations of and require information and reports from insured credit unions, as provided in this subchapter.

(9) act as liquidating agent:

(10) delegate to any officer or employee of the Administration such of his functions as he deems appropriate; and

(11) prescribe such rules and regulations as he may deem necessary or appropriate to carry out the provisions of this subchapter.

(b) With respect to the financial operations arising by reason of this subchapter, the Administrator shall—

(1) prepare annually and submit a business-type budget as provided for wholly owned Government Corporation Control Act [31 U.S.C. 841 et seq.]; and

(2) maintain an integral set of accounts, which shall be audited by the General Accounting Office in accordance with principles and procedures applicable to commercial corporate transactions, as provided by section 850 of title 31.

(June 26, 1934, ch. 750, title II, § 209, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 1014, and amended Jan. 2, 1975, Pub. L. 93-604, title VII, § 706, 88 Stat. 1964.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in subsec. (b)(1), is act Dec. 6, 1945, ch. 557, 59 Stat. 597, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see Short Title note set out under section 841 of Title 31 and Tables volume.

CODIFICATION

In subsec. (a)(5), "section 3109 of title 5" was substituted for "section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

AMENDMENTS

1975—Subsec. (b)(2). Pub. L. 93-604 substituted "audited by the General Accounting Office" for "audited annually by the General Accounting Office".

§ 1790. Nondiscriminatory provisions

It is not the purpose of this subchapter to discriminate in any manner against State-chartered credit unions and in favor of Federal credit unions, but it is the purpose of this subchapter to provide all credit unions with the same opportunity to obtain and enjoy the benefits of this subchapter.

(June 26, 1934, ch. 750, title II, § 210, as added Oct. 19, 1970, Pub. L. 91-468, § 1(3), 84 Stat. 1015.)

CHAPTER 15—FEDERAL LOAN AGENCY

§§ 1801 to 1805. Omitted

CODIFICATION

Sections, acts Feb. 24, 1945, ch. 4, §§ 1, 2, 4, 5, 59 Stat. 5, 6; Apr. 25, 1945, ch. 95, title I, 59 Stat. 81, related to the Federal Loan Agency which was established by Reorg. Plan No. I of 1939, § 402, set out in the Appendix to Title 5, Government Organization and Employees, and continued as an independent establishment of the Government by act Feb. 24, 1945, ch. 4, 59 Stat. 5, and was abolished by section 204 of act June 30, 1947, ch. 166, title II, 61 Stat. 208, and its property and records were transferred to the Reconstruction Finance Corporation. By act June 24, 1954, ch. 410, § 2(a), 68 Stat. 320, section 609 of Title 15, Commerce and Trade, the Secretary of the Treasury was authorized to liquidate the Reconstruction Finance Corporation. Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out as a note under section 601 of Title 15, Commerce and Trade, abolished the Reconstruction Finance Corporation.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 82, 161, 222, 329, 1425b, 1470, 1841, 2254 of this title; title 15 sections 78c, 78*l*, 78m.

§ 1811. Creation of Corporation; duties

There is created a Federal Deposit Insurance Corporation (hereinafter referred to as the "Corporation") which shall insure, as hereinafter provided, the deposits of all banks which are entitled to the benefits of insurance under this chapter, and which shall have the powers hereinafter granted.

(Sept. 21, 1950, ch. 967, § 2 [1], 64 Stat. 873.)

CODIFICATION

The Federal Deposit Insurance Corporation was originally created as a part of the Federal Reserve Act by act June 16, 1933, ch. 89, § 8, 48 Stat. 168 which added section 12B to the Federal Reserve Act, act Dec. 23, 1913, ch. 6, 38 Stat. 103, and was classified to section 264 of this title. Act Dec. 23, 1913, ch. 6, § 12B, as added June 16, 1933, ch. 89, § 8, 48 Stat. 168 has been amended by acts June 16, 1934, ch. 546, § 1(1) to (10), 48 Stat. 969, 970; June 28, 1935, ch. 335, 49 Stat. 435; Aug. 23, 1935, ch. 614, § 101, 49 Stat. 684; Apr. 21, 1936, ch. 244, 49 Stat. 1237; May 25, 1938, ch. 276, 52 Stat. 442; June 16, 1938, ch. 489, 52 Stat. 767; June 20, 1939, ch. 214, § 2, 53 Stat. 842; Apr. 13, 1943, ch. 62, § 1, 57 Stat. 65; Aug. 5, 1947, ch. 492, §§ 2, 4, 61 Stat. 773; June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948; Oct. 15, 1949, ch. 695, § 4, 63 Stat. 880; Aug. 17, 1950, ch. 729, §§ 5 to 7, 64 Stat. 457.

Section 12B of the Federal Reserve Act was withdrawn from the Federal Reserve Act and made a separate Act by section 1 of act Sept. 21, 1950, and set out as this chapter.

SHORT TITLE

Congress in enacting this chapter and amendment of section 1728(b) of this title and sections 215 and 709 of Title 18, Crimes and Criminal Procedure, provided by section 1 of act Sept. 21, 1950, that these provisions should be popularly known as the "Federal Deposit Insurance Act".

PRIOR PROVISIONS

Section is derived from subsec. (a) of former section 264 of this title. See Codification note under this section.

§ 1812. Directors; appointment; term of office; chairman; vacancies; office or ownership of stock in banking institution forbidden

The management of the Corporation shall be vested in a Board of Directors consisting of three members, one of whom shall be the Comptroller of the Currency, and two of whom shall be citizens of the United States to be appointed by the President, by and with the advice and consent of the Senate. One of the appointive members shall be the Chairman of the Board of Directors of the Corporation and not more than two of the members of such Board of Directors shall be members of the same political party. Each such appointive member shall hold office for a term of six years. In the event of a vacancy in the office of the Comptroller of the Currency, and pending the appointment of his successor, or during the absence or disability of the Comptroller, the Acting Comptroller of the Currency shall be a member of the Board of Directors in the place and stead of the Comptroller. In the event of a vacancy in the office of the Chairman of the Board of Directors, and pending the appointment of his successor, the Comptroller of the Currency shall act as Chairman. The members of the Board of Directors shall be ineligible during the time they are in office and for two years thereafter to hold any office, position, or employment in any insured bank, except that this restriction shall not apply to any member who has served the full term for which he was appointed. No member of the Board of Directors shall be an officer or director of any insured bank or Federal Reserve bank or hold stock in any insured bank; and before entering upon his duties as a member of the Board of Directors he shall certify under oath that he has complied with this requirement and such certification shall be filed with the secretary of the Board of Directors.

(Sept. 21, 1950, ch. 967, § 2[2], 64 Stat. 873; Sept. 8, 1959, Pub. L. 86-230, § 19, 73 Stat. 460.)

AMENDMENTS

1959—Pub. L. 86-230 provided for membership of the Acting Comptroller of the Currency on the Board of Directors during the absence or disability of the Comptroller instead of only during his absence from Washington.

COMPENSATION OF BOARD OF DIRECTORS

Compensation of Chairman and members of the Board, see sections 5314 and 5315 of Title 5, Government Organization and Employees.

PRIOR PROVISIONS

Section is derived from subsec. (b) of former section 264 of this title. See Codification note under section 1811 of this title.

§ 1813. Definitions

As used in this chapter—

(a) The term "State bank" means any bank, banking association, trust company, savings bank, or other banking institution which is engaged in the business of receiving deposits,

other than trust funds as herein defined, and which is incorporated under the laws of any State, any Territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, or which is operating under the Code of Law for the District of Columbia (except a national bank), and includes any unincorporated bank the deposits of which are insured on September 21, 1950, and the word "State" means any State of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(b) The term "State member bank" means any State bank which is a member of the Federal Reserve System, and the term "State nonmember bank" means any State bank which is not a member of the Federal Reserve System.

(c) The term "District bank" means any State bank operating under the Code of Law for the District of Columbia.

(d) The term "national member bank" means any national bank located in any of the States of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands which is a member of the Federal Reserve System.

(e) The term "national nonmember bank" means any national bank located in any Territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands which is not a member of the Federal Reserve System.

(f) The term "mutual savings bank" means a bank without capital stock transacting a savings bank business, the net earnings of which inure wholly to the benefit of its depositors after payment of obligations for any advances by its organizers.

(g) The term "savings bank" means a bank (other than a mutual savings bank) which transacts its ordinary banking business strictly as a savings bank under State laws imposing special requirements on such banks governing the manner of investing their funds and of conducting their business: *Provided*, That the bank maintains, until maturity date or until withdrawn, all deposits made with it (other than funds held by it in a fiduciary capacity) as time savings deposits of the specific term type or of the type where the right is reserved to the bank to require written notice before permitting withdrawal: *Provided further*, That such bank to be considered a savings bank must elect to become subject to regulations of the Corporation with respect to the redeposit of maturing deposits and prohibiting withdrawal of deposits by checking except in cases where such withdrawal was permitted by law on August 23, 1935, from specifically designated deposit accounts totaling not more than 15 per centum of the bank's total deposits.

(h) The term "insured bank" means any bank the deposits of which are insured in accordance with the provisions of this chapter; and the term "noninsured bank" means any bank the deposits of which are not so insured.

(i) The term "new bank" means a new national banking association organized by the Corporation to assume the insured deposits of an insured bank closed on account of inability to meet the demands of its depositors and otherwise to perform temporarily the functions prescribed in this chapter.

(j) The term "receiver" includes a receiver, liquidating agent, conservator, commission, person, or other agency charged by law with the duty of winding up the affairs of a bank.

(k) The term "Board of Directors" means the Board of Directors of the Corporation.

(*l*) The term "deposit" means—

(1) the unpaid balance of money or its equivalent received or held by a bank in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, or a check or draft drawn against a deposit account and certified by the bank, or a letter of credit or a traveler's check on which the bank is primarily liable: *Provided*, That, without limiting the generality of the term "money or its equivalent", any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining any such credit or instrument is primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts, or other instruments forwarded to such banks for collection.

(2) trust funds as defined in this chapter received or held by such bank, whether held in the trust department or held or deposited in any other department of such bank.

(3) money received or held by a bank, or the credit given for money or its equivalent received or held by a bank, in the usual course of business for a special or specific purpose, regardless of the legal relationship thereby established, including without being limited to, escrow funds, funds held as security for an obligation due to the bank or others (including funds held as dealers reserves) or for securities loaned by the bank, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States Government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit, and withheld taxes: *Provided*, That there shall not be included funds which are received by the bank for immediate application to the reduction of an indebtedness to the receiving bank, or under condition that the receipt thereof immediately reduces or extinguishes such an indebtedness.

(4) outstanding draft (including advice or authorization to charge bank's balance in another bank), cashier's check, money order, or other officer's check issued in the usual course of business for any purpose, including without being limited to those issued in payment for services, dividends, or purchases, and

(5) such other obligations of a bank as the Board of Directors, after consultation with the Comptroller of the Currency and the Board of Governors of the Federal Reserve System, shall find and prescribe by regulation to be deposit liabilities by general usage: *Provided further*, That any obligation of a bank

which is payable only at an office of the bank located outside of the States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands, shall not be a deposit for any of the purposes of this chapter or be included as part of total deposits or of an insured deposit.

(m) The term "insured deposit" means the net amount due to any depositor (other than a depositor referred to in the third sentence of this subsection) for deposits in an insured bank (after deducting offsets) less any part thereof which is in excess of $40,000. Such net amount shall be determined according to such regulations as the Board of Directors may prescribe, and in determining the amount due to any depositor there shall be added together all deposits in the bank maintained in the same capacity and the same right for his benefit either in his own name or in the names of others except trust funds which shall be insured as provided in subsection (i) of section 1817 of this title. Each officer, employee, or agent of the United States, of Puerto Rico, of Guam, of American Samoa, of the Virgin Islands, of any county, of any municipality, or of any political subdivision thereof, herein called "public unit", having official custody of public funds and lawfully depositing the same in an insured bank shall, for the purpose of determining the amount of the insured deposits, be deemed a depositor in such custodial capacity separate and distinct from any other officer, employee, or agent of the same or any public unit having official custody of public funds and lawfully depositing the same in the same insured bank in custodial capacity. For the purpose of clarifying and defining the insurance coverage under this subsection and subsection (i) of section 1817 of this title, the Corporation is authorized to define, with such classifications and exceptions as it may prescribe, terms used in those subsections, in subsection (p) of this section, and in subsections (a) and (i) of section 1821 of this title and the extent of the insurance coverage resulting therefrom.

(n) The term "transferred deposit" means a deposit in a new bank or other insured bank made available to a depositor by the Corporation as payment of the insured deposit of such depositor in a closed bank, and assumed by such new bank or other insured bank.

(*o*) The term "branch" includes any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State of the United States or in any Territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands at which deposits are received or checks paid or money lent.

(p) The term "trust funds" means funds held by an insured bank in a fiduciary capacity and includes, without being limited to, funds held as trustee, executor, administrator, guardian, or agent.

(q) The term "appropriate Federal banking agency" shall mean (1) the Comptroller of the Currency in the case of a national banking association or a District bank, (2) the Board of Governors of the Federal Reserve System in the case of a State member insured bank (except a District bank), and (3) the Federal Deposit Insurance Corporation in the case of a State nonmember insured bank (except a District bank).

(Sept. 21, 1950, ch. 967, § 2[3], 64 Stat. 873; July 14, 1952, ch. 725, 66 Stat. 605; Aug. 1, 1956, ch. 852, § 3, 70 Stat. 908; July 14, 1960, Pub. L. 86-671, § 1, 74 Stat. 546; Oct. 16, 1966, Pub. L. 89-695, title II, § 201, title III, §§ 301(a), 303(a), 80 Stat. 1046, 1055, 1056; Dec. 23, 1969, Pub. L. 91-151, § 7(a)(1), 83 Stat. 375; Dec. 31, 1970, Pub. L. 91-609, title IX, § 910(a)(f), 84 Stat. 1811, 1812; Oct. 28, 1974, Pub. L. 93-495, title I, §§ 101(a)(1), 102(a)(1), 88 Stat. 1500, 1502.)

AMENDMENTS

1974—Subsec. (m). Pub. L. 93-495 added "(other than a depositor referred to in the third sentence of this subsection)" following "net amount due to any depositor", and substituted "$40,000" for "$20,000".

1970—Pub. L. 91-609 inserted reference to American Samoa in subsecs. (a), (d), (e), (*l*)(5), (m), and (o), respectively.

1969—Subsec. (m). Pub. L. 91-151 substituted $20,000 for $15,000 in the first sentence.

1966—Subsec. (m). Pub. L. 89-695, §§ 301(a), 303(a), substituted "$15,000" for "$10,000" in the first sentence and added sentence which, for purpose of clarifying and defining the insurance coverage under subsec. (m) of this section and section 1817(i) of this title, authorized the Corporation to define terms used in those provisions, subsec. (p) of this section, and section 1821 (a) and (i) of this title and the extent of insurance coverage resulting therefrom, respectively.

Subsec. (q). Pub. L. 89-695, § 201, added subsec. (q).

1960—Subsec. (*l*). Pub. L. 86-671 amended subsec. (*l*) generally, and among other changes, inserted in par. (1) the words "or held", "either conditionally or unconditionally", "or a check or draft drawn against a deposit account and certified by the bank, or a letter of credit or a traveler's check on which the bank is primarily liable", and added the proviso, added pars. (3) and (4), inserted provisions in par. (5) requiring the Board of Directors to consult with the Comptroller of the Currency and the Board of Governors of the Federal Reserve System, and eliminated provisions which permitted mainland banks to exclude from deposit insurance the deposits of any of its branches in the Virgin Islands.

1956—Subsec. (a). Act Aug. 1, 1956, § 3(a), inserted "Guam," after "Puerto Rico," and substituted a comma for the period and added "and the word 'State' means any State of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, or the Virgin Islands".

Subsec. (d). Act Aug. 1, 1956, § 3(b), inserted "Guam," after "Puerto Rico,".

Subsec. (e). Act Aug. 1, 1956, § 3(b), inserted "Guam," after "Puerto Rico".

Subsec. (*l*). Act Aug. 1, 1956, § 3(c), inserted "Guam," after "Puerto Rico," in the first proviso.

Subsec. (m). Act Aug. 1, 1956, § 3(d), inserted "of Guam," after "of Puerto Rico,".

Subsec. (o). Act Aug. 1, 1956, § 3(b), inserted "Guam," after "Puerto Rico.".

1952—Subsec. (*l*). Act July 14, 1952, made it compulsory for banks having branches in Puerto Rico to insure their deposits.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 101(g) of Pub. L. 93-495 provided that: "This section and the amendments made by it [which inserted provisions authorizing insurance for public funds by amending subsec. (m) of this section and sections 1464(b)(2), 1724(b), 1728(a), (d), 1757(7), 1787(c), 1817(i), and 1821(a) of this title] shall take effect on the thirtieth day beginning after the date of enactment of this Act [Oct. 28, 1974]."

Section 102(b), (c) of Pub. L. 93-495 provided that:

"(b) The amendments made by this section [which inserted provisions authorizing increased ceiling on deposit insurance by amending subsec. (m) of this section and sections 1817(i) and 1821(a) and (i) of this title] are not applicable to any claim arising out of the closing of a bank prior to the effective date of this section.

"(c) The amendments made by this section shall take effect on the thirtieth day beginning after the date of enactment of this Act [Oct. 28, 1974]."

EFFECTIVE DATE OF 1969 AMENDMENT

Section 7(b) of Pub. L. 91-151 provided that: "The amendments made by this section [amending subsec. (m) of this section and sections 1817(i), 1821(a), and 1821(i) of this title] are not applicable to any claim arising out of the closing of a bank prior to the date of enactment of this Act [Dec. 23, 1969]."

EFFECTIVE DATE OF 1966 AMENDMENT

Section 301(e) of Pub. L. 89-695 provided that: "The amendments made by this section [to first sentence of subsec. (m) of this section and sections 1817(i) and 1821(a), (i) of this title] shall not be applicable to any claim arising out of the closing of a bank where such closing is prior to the date of enactment of this Act [Oct. 16, 1966]."

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91-609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811, repealed section 401 of Pub. L. 89-695 which had provided that: "The provisions of titles I and II of this Act [amending sections 1464, 1730, 1813, 1817 to 1820 and repealing section 77 of this title and enacting provisions set out as notes under sections 1464, 1730, and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted".

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-671 effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as a note under section 1817 of this title.

CONDITIONS GOVERNING EMPLOYMENT OF PERSONNEL NOT REPEALED, MODIFIED, OR AFFECTED

Section 206 of Pub. L. 89-695 provided that: "Nothing contained in this title [amending sections 1813 and 1817 to 1820 of this title and repealing former section 77 of this title] shall be construed to repeal, modify, or affect the provisions of section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829)."

PROHIBITION ON CERTAIN ACTIVITIES BY DEPOSITORY INSTITUTIONS

Prohibition on withdrawal by negotiable or transferable instruments by owners of deposits or accounts in depository institutions, including insured banks, state banks, and mutual savings banks as defined in this section, see section 1832 of this title.

PRIOR PROVISIONS

Section is derived from subsec. (c) of former section 264 of this title. See Codification note under section 1811 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 265, 1817, 1832, 1842, 2804 of this title; title 29 section 1134; title 31 section 1052.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 28-3308, 28-3603, 28-3701, 31-1702 of the District of Columbia Code.

§ 1814. Insured banks; certificate of Comptroller of Currency authorizing transaction of banking business

(a) Every bank, which is an insured bank on September 21, 1950, shall be and continue to be, without application or approval, an insured bank and shall be subject to the provisions of this chapter.

(b) Every national member bank which is authorized to commence or resume the business of banking, and which is engaged in the business of receiving deposits other than trust funds as herein defined, and every such national nonmember bank which becomes a member of the Federal Reserve System, and every State bank which is converted into a national member bank or which becomes a member of the Federal Reserve System, and which is engaged in the business of receiving deposits, other than trust funds as herein defined, shall be an insured bank from the time it is authorized to commence or resume business or becomes a member of the Federal Reserve System. The certificate herein prescribed shall be issued to the Corporation by the Comptroller of the Currency in the case of such national member bank, or by the Board of Governors of the Federal Reserve System in the case of such State member bank: *Provided*, That in the case of an insured bank which is admitted to membership in the Federal Reserve System or an insured State bank which is converted into a national member bank, such certificate shall not be required, and the bank shall continue as an insured bank. Such certificate shall state that the bank is authorized to transact the business of banking in the case of a national member bank, or is a member of the Federal Reserve System in the case of a State member bank, and that consideration has been given to the factors enumerated in section 1816 of this title. A State bank, resulting from the conversion of an insured national bank, shall continue as an insured bank. A State bank, resulting from the merger or consolidation of insured banks, or from the merger or consolidation of a noninsured bank or institution with an insured State bank, shall continue as an insured bank.

(Sept. 21, 1950, ch. 967, § 2[4], 64 Stat. 875.)

PRIOR PROVISIONS

Section is derived from subsec. (e) of former section 264 of this title. See Codification note under section 1811 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1815, 1816, 1818 of this title.

§ 1815. Application of nonmember banks for insured status

Subject to the provisions of this chapter, any national nonmember bank which is engaged in the business of receiving deposits, other than trust funds as herein defined, upon application by the bank and certification by the Comptroller of the Currency in the manner prescribed in

subsection (b) of section 1814 of this title and any State nonmember bank, upon application to and examination by the Corporation and approval by the Board of Directors, may become an insured bank. Before approving the application of any such State nonmember bank, the Board of Directors shall give consideration to the factors enumerated in section 1816 of this title and shall determine, upon the basis of a thorough examination of such bank, that its assets in excess of its capital requirements are adequate to enable it to meet all of its liabilities to depositors and other creditors as shown by the books of the bank.

(Sept. 21, 1950, ch. 967, § 2[5], 64 Stat. 876.)

PRIOR PROVISIONS

Section is derived from subsec. (f)(2) of former section 264 of this title. See Codification note under section 1811 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1816 of this title.

§ 1816. Factors considered in issuing certificate to do business

The factors to be enumerated in the certificate required under section 1814 of this title and to be considered by the Board of Directors under section 1815 of this title shall be the following: The financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether or not its corporate powers are consistent with the purposes of this chapter.

(Sept. 21, 1950, ch. 967, § 2[6], 64 Stat. 876.)

PRIOR PROVISIONS

Section is derived from subsec. (g) of former section 264 of this title. See Codification note under section 1811 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1814, 1815, 1828 of this title.

§ 1817. Assessments

(a) Reports of condition; access to bank examination reports

(1) Each insured State nonmember bank (except a District bank) shall make to the Corporation reports of condition which shall be in such form and shall contain such information as the Board of Directors may require. Such reports shall be made to the Corporation on the dates selected as provided in paragraph (3) of this subsection and the deposit liabilities shall be reported therein in accordance with and pursuant to paragraphs (4) and (5) of this subsection. The Board of Directors may call for additional reports of condition on dates to be fixed by it and may call for such other reports as the Board may from time to time require. The Board of Directors may require reports of condition to be published in such manner, not inconsistent with any applicable law, as it may direct. Every such bank which fails to make or publish any such report within ten days shall be subject to a penalty of not more than $100 for each day of such failure recoverable by the Corporation for its use.

(2) The Corporation shall have access to reports of examination made by, and reports of condition made to, the Comptroller of the Currency or any Federal Reserve bank and to all revisions of reports of condition made to either of them, and they shall promptly advise the Corporation of any revisions or changes in respect to deposit liabilities made or required to be made in any report of condition. The Corporation may accept any report made by or to any commission, board, or authority having supervision of a State nonmember bank (except a District bank), and may furnish to the Comptroller of the Currency, to any Federal Reserve bank, and to any such commission, board, or authority, reports of examinations made on behalf of, and reports of condition made to, the Corporation.

(3) Each insured State nonmember bank (except a District bank) shall make to the Corporation, each insured national bank and each insured District bank shall make to the Comptroller of the Currency, and each insured State member bank shall make to the Federal Reserve bank of which it is a member, four reports of condition annually upon dates which shall be selected by the Chairman of the Board of Directors, the Comptroller of the Currency, and the Chairman of the Board of Governors of the Federal Reserve System, or a majority thereof. The dates selected shall be the same for all insured banks, except that when any of said reporting dates is a nonbusiness day for any bank, the preceding business day shall be its reporting date. Two dates shall be selected within the semiannual period of January to June inclusive, and the reports on such dates shall be the basis for the certified statement to be filed in July pursuant to subsection (c) of this section, and two dates shall be selected within the semiannual period of July to December inclusive, and the reports on such dates shall be the basis for the certified statement to be filed in January pursuant to subsection (c) of this section. The deposit liabilities shall be reported in said reports of conditions in accordance with and pursuant to paragraphs (4) and (5) of this subsection, and such other information shall be reported therein as may be required by the respective agencies. Each said report of condition shall contain a declaration by the president, a vice president, the cashier or the treasurer, or by any other officer designated by the board of directors or trustees of the reporting bank to make such declaration, that the report is true and correct to the best of his knowledge and belief. The correctness of said report of condition shall be attested by the signatures of at least three of the directors or trustees of the reporting bank other than the officer making such declaration, or by at least two if there are not more than three directors or trustees, with the declaration that the report has been examined by them and to the best of their knowledge and belief is true and correct. At the time of making said reports of condition each insured national, District and State member bank shall furnish to the Corporation a copy thereof containing such signed declaration and attesta-

tions. Nothing herein shall preclude any of the foregoing agencies from requiring the banks under its jurisdiction to make additional reports of condition at any time.

(4) In the reports of condition required to be made by paragraph (3) of this subsection, each insured bank shall report the total amount of the liability of the bank for deposits in the main office and in any branch located in any State of the United States, the District of Columbia, any Territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, according to the definition of the term "deposit" in and pursuant to subsection (*l*) of section 1813 of this title without any deduction for indebtedness of depositors or creditors or any deduction for cash items in the process of collection drawn on others than the reporting bank: *Provided,* That the bank in reporting such deposits may (i) subtract from the deposit balance due to any bank the deposit balance due from the same bank (other than trust funds deposited by either bank) and any cash items in the process of collection due from or due to such banks shall be included in determining such net balance, except that balances of time deposits of any bank and any balances standing to the credit of private banks, of banks in foreign countries, of foreign branches of other American banks, and of American branches of foreign banks shall be reported gross without any such subtraction, and (ii) exclude any deposits received in any office of the bank for deposit in any other office of the bank: *And provided further,* That outstanding drafts (including advices and authorizations to charge bank's balance in another bank) drawn in the regular course of business by the reporting bank on banks need not be reported as deposit liabilities. The amount of trust funds held in the bank's own trust department, which the reporting bank keeps segregated and apart from its general assets and does not use in the conduct of its business, shall not be included in the total deposits in such reports, but shall be separately stated in such reports.

(5) The deposits to be reported on such reports of condition shall be segregated between (i) time and savings deposits and (ii) demand deposits. For this purpose and for the computation of assessments provided in subsection (b) of this section, the time and savings deposits shall consist of time certificates of deposit, time deposits-open account, deposits accumulated for the payment of personal loans, and savings deposits; and demand deposits shall consist of all deposits other than time and savings deposits.

(6) The Board of Directors, after consultation with the Comptroller of the Currency and the Board of Governors of the Federal Reserve System, may by regulation define the terms "cash items" and "process of collection", and shall classify deposits as "time", "savings", and "demand" deposits, for the purposes of this section.

(b) Computation of assessments; rate and amount; base; additions and deductions; records; definitions

(1) The annual assessment rate shall be one-twelfth of 1 per centum. Except as provided in subsection (c)(2) of this section, the semiannual assessment due from any insured bank for any semiannual period shall be equal to one-half the annual assessment rate multiplied by such bank's average assessment base for the immediately preceding semiannual period.

(2) For the purposes of this section the term "semiannual period" means a period beginning on January 1 of any calendar year and ending on June 30 of the same year, or a period beginning on July 1 of any calendar year and ending on December 31 of the same year.

(3) A bank's average assessment base for any semiannual period shall be the average of such bank's assessment bases for the two dates, falling within such semiannual period, for which the bank is required to submit reports of condition pursuant to paragraph (3) of subsection (a) of this section (referred to hereafter in this section as "reports of condition").

(4) A bank's assessment base for any date shall be equal to the bank's liability for deposits (including the deposits of any other bank for which it has assumed liability) as reported in its report of condition for such date, plus the assessment base additions set forth in paragraph (5), and less the assessment base deductions set forth in paragraph (6).

(5) The assessment base additions shall be the amounts of—

(A) uninvested trust funds required to be separately stated in the bank's report of condition; and

(B) any deposits received in any office of the bank for deposit in any other office of the bank located in the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, or the Virgin Islands, except those which have been included in deposits in the report of condition or which have been offset in the report of condition by an equal amount of cash items in its possession drawn on itself (on the same type of deposit as those offset) and not charged against deposit liabilities at the close of business on the date as of which the report of condition is made, either in their actual amount as shown on the books of the bank, or, if not so shown, in an amount determined by means of an experience factor pursuant to regulations prescribed by the Board of Directors.

(6) The assessment base deductions shall be the amounts of—

(A) cash items in the bank's possession, drawn on itself, which have not been charged against deposit liabilities at the close of business on the date as of which the report of condition is made, either in their actual amount as shown on the books of the bank, or, if not so shown, in an amount determined by means of an experience factor pursuant to regulations prescribed by the Board of Directors;

(B) deposits included in reported deposit liabilities which are accumulated for the payment of personal loans and are assigned or pledged to assure repayment of the loans at maturity;

(C) 1 per centum of the bank's adjusted time and savings deposits (as defined in paragraph (7)); and

(D) 16⅔ per centum of the bank's adjusted demand deposits (as defined in paragraph (8)).

Each insured bank, as a condition to the right to make any such deduction in determining its assessment base, shall maintain such records as will readily permit verification of the correctness of its assessment base. No insured bank shall be required to retain such records for such purpose for a period in excess of five years from the date of the filing of any certified statement, except that when there is a dispute between the insured bank and the Corporation over the amount of any assessment the bank shall retain such records until final determination of the issue.

(7) The term "the bank's adjusted time and savings deposits" means the amount of the bank's time and savings deposits as reported in its report of condition, as adjusted—

(A) either by adding the amount of all deposits of the type described in subparagraph (5)(B) or, if the bank elects to ascertain the respective amounts of such deposits creditable to time and savings deposits and to demand deposits, by adding the amount creditable to time and savings deposits;

(B) by subtracting, if the bank elects to ascertain the respective amounts of its items of the type described in subparagraph (6)(A) chargeable against time and savings deposits and against demand deposits, the amount chargeable against time and savings deposits; and

(C) by subtracting the amount of all deposits of the type described in subparagraph (6)(B).

(8) The term "the bank's adjusted demand deposits" means the amount of the bank's demand deposits as reported in its report of condition, as adjusted—

(A) by adding the amount of all deposits of the type described in subparagraph (5)(A);

(B) by adding, if the bank elects to ascertain the respective amounts of its deposits of the type described in subparagraph (5)(B) creditable to time and savings deposits and to demand deposits, the amount creditable to demand deposits; and

(C) either by subtracting the amount of all items of the type described in subparagraph (6)(A), or, if the bank elects to ascertain the respective amounts of such items chargeable against time and savings deposits and against demand deposits, by subtracting the amount chargeable against demand deposits.

(c) Filing of certified statements of assessment base and average assessment base and amounts due; payments; form, contents, certification of statements; rules and regulations

(1) On or before the last day of the first month following each semiannual period, each insured bank which became insured prior to the beginning of such period shall file with the Corporation a certified statement showing its average assessment base for such period, and the amount of the semiannual assessment due to the Corporation for the semiannual period which begins with such month. Each such bank shall pay to the Corporation the amount of the semiannual assessment it is required to certify.

(2) A bank shall not be required to pay any assessment for the semiannual period in which it becomes an insured bank. On or before the last day of the first month following the semiannual period during which any bank becomes an insured bank, such bank shall—

(A) file with the Corporation a certified statement showing, as its assessment base for such period, its assessment base for the last date, if any, within such period for which it was required to submit a report of condition, or

(B) if such bank became an insured bank after the last date in such period for which a report of condition was required, such bank shall make a special report of condition as of the last day of such semiannual period, and shall file with the Corporation a certified statement showing, as its assessment base for such period, its assessment base for the date of such special report.

The semiannual assessment due from such bank for the semiannual period which begins with such month shall be equal to one-half the annual assessment rate multiplied by the assessment base computed pursuant to subparagraph (A) or (B) of this paragraph, and the amount of such assessment shall be shown on such certified statement. Each such bank shall pay to the Corporation the amount of the semiannual assessment it is required to certify.

(3) The certified statements required to be filed with the Corporation under paragraphs (1) and (2) of this subsection shall be in such form and set forth such supporting information as the Board of Directors shall prescribe and shall be certified by the president of the bank or any other officer designated by its board of directors or trustees that to the best of his knowledge and belief the statement is true, correct and complete and in accordance with this chapter and regulations issued thereunder. The assessment payments required from insured banks under paragraphs (1) and (2) of this subsection shall be made in such manner and at such time or times as the Board of Directors shall prescribe, provided the time or times so prescribed shall not be later than sixty days after filing the certified statement setting forth the amount of assessment.

(4) Except as otherwise provided in this section, the Board of Directors shall prescribe all needful rules and regulations for the enforcement of this section. The Board of Directors may limit the retroactive effect, if any, of any of its rules or regulations.

(d) Transfer of net assessment income of Corporation to capital account; pro rata credit to insured banks

As of December 31, 1961, and as of December 31, of each calendar year thereafter, the Corporation shall transfer 33⅓ per centum of its net assessment income to its capital account and the balance of the net assessment income shall be credited pro rata to the insured banks based upon the assessments of each bank becoming due during said calendar year. Each year such credit shall be applied by the Corporation toward the payment of the total assessment becoming due for the semiannual assessment period beginning the next ensuing July 1 and

any excess credit shall be applied upon the assessment next becoming due. The term "net assessment income" as used herein means the total assessments which become due during the calendar year less (1) the operating costs and expenses of the Corporation for the calendar year; (2) additions to reserve to provide for insurance losses during the calendar year except that any adjustments to reserve which result in a reduction of such reserve shall be added; and (3) the insurance losses sustained in said calendar year plus losses from any preceding years in excess of such reserves. If the above deductions exceed in amount the total assessments which become due during the calendar year, the amount of such excess shall be restored by deduction from total assessments becoming due in subsequent years.

(e) Refunds to insured banks

The Corporation (1) may refund to an insured bank any payment of assessment in excess of the amount due to the Corporation or (2) may credit such excess toward the payment of the assessment next becoming due from such bank and upon succeeding assessments until the credit is exhausted.

(f) Action against banks failing to file certified statements

Any insured bank which fails to make any report of condition under subsection (a) of this section or to file any certified statement required to be filed by it in connection with determining the amount of any assessment payable by the bank to the Corporation may be compelled to make such report or file such statement by mandatory injunction or other appropriate remedy in a suit brought for such purpose by the Corporation against the bank and any officer or officers thereof in any court of the United States of competent jurisdiction in the District or Territory in which such bank is located.

(g) Action by Corporation to recover assessments

The Corporation, in a suit brought at law or in equity in any court of competent jurisdiction, shall be entitled to recover from any insured bank the amount of any unpaid assessment lawfully payable by such insured bank to the Corporation, whether or not such bank shall have made any such report of condition under subsection (a) of this section or filed any such certified statement and whether or not suit shall have been brought to compel the bank to make any such report or file any such statement. No action or proceeding shall be brought for the recovery of any assessment due to the Corporation, or for the recovery of any amount paid to the Corporation in excess of the amount due to it, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except where the insured bank has made or filed with the Corporation a false or fraudulent certified statement with the intent to evade, in whole or in part, the payment of assessment, in which case the claim shall not be deemed to have accrued until the discovery by the Corporation that the certified statement is false or fraudulent: *Provided, however,* That where a cause of action has already accrued, and the period herein prescribed within which an action may be brought has expired, or will expire within one year from September 21, 1950, an action may be brought on such cause of action within one year from September 21, 1950: *And provided further,* That no action or proceeding shall be brought for the recovery of any assessment on deposits alleged to have been omitted from the assessment base of any insured bank for any year prior to 1945 except that any claim of the Corporation for the payment of any assessment may be offset by it against any claim of the bank for the overpayment of any assessment.

(h) Forfeiture of rights for failure to comply with law

Should any national member bank or any insured national nonmember bank fail to make any report of condition under subsection (a) of this section or to file any certified statement required to be filed by such bank under any provision of this section, or fail to pay any assessment required to be paid by such bank under any provision of this chapter, and should the bank not correct such failure within thirty days after written notice has been given by the Corporation to an officer of the bank, citing this subsection, and stating that the bank has failed to make any report of condition under subsection (a) of this section or to file or pay as required by law, all the rights, privileges, and franchises of the bank granted to it under the National Bank Act, as amended [12 U.S.C. 21 et seq.], the Federal Reserve Act, as amended [12 U.S.C. 221 et seq.], or this chapter, shall be thereby forfeited. Whether or not the penalty provided in this subsection has been incurred shall be determined and adjudged in the manner provided in the sixth paragraph of section 2 of the Federal Reserve Act, as amended [12 U.S.C. 501a]. The remedies provided in this subsection and in subsections (f) and (g) of this section shall not be construed as limiting any other remedies against any insured bank, but shall be in addition thereto.

(i) Insurance of trust funds

Except with respect to trust funds which are owned by a depositor referred to in paragraph (2) of section 1821(a) of this title, trust funds held by an insured bank in a fiduciary capacity whether held in its trust department or held or deposited in any other department of the fiduciary bank shall be insured in an amount not to exceed $40,000 for each trust estate, and when deposited by the fiduciary bank in another insured bank such trust fund shall be similarly insured to the fiduciary bank according to the trust estates represented. Notwithstanding any other provision of this chapter, such insurance shall be separate from and additional to that covering other deposits of the owners of such trust funds or the beneficiaries of such trust estates. The Board of Directors shall have power by regulation to prescribe the manner of reporting and of depositing such trust funds.

(j) Change in control of insured banks: reports to Federal banking agencies, "control" defined; secured loans: reports, exceptions; information reported; changes or replacement of chief executive officers or directors; statement of business and professional affiliations of successors; copies of reports to Federal banking agencies

(1) Whenever a change occurs in the outstanding voting stock of any insured bank which will result in control or in a change in the control of the bank, the president or other chief executive officer of such bank shall promptly report such facts to the appropriate Federal banking agency upon obtaining knowledge of such change. As used in this subsection, the term "control" means the power to directly or indirectly direct or cause the direction of the management or policies of the bank. A change in ownership of voting stock which would result in direct or indirect ownership by a stockholder or an affiliated group of stockholders of less than 10 percent of the outstanding voting stock shall not be considered a change of control. If there is any doubt as to whether a change in the outstanding voting stock is sufficient to result in control thereof or to effect a change in the control thereof, such doubt shall be resolved in favor of reporting the facts to the appropriate Federal banking agency.

(2) Whenever an insured bank makes a loan or loans, secured, or to be secured, by 25 per centum or more of the outstanding voting stock of an insured bank, the president or other chief executive officer of the lending bank shall promptly report such fact to the appropriate Federal banking agency of the bank whose stock secures the loan or loans upon obtaining knowledge of such loan or loans, except that no report need be made in those cases where the borrower has been the owner of record of the stock for a period of one year or more, or the stock is that of a newly organized bank prior to its opening.

(3) The reports required by paragraphs (1) and (2) of this subsection shall contain the following information to the extent that it is known by the person making the report: (a) the number of shares involved, (b) the names of the sellers (or transferors), (c) the names of the purchasers (or transferees), (d) the names of the beneficial owners if the shares are registered in another name, (e) the purchase price, (f) the total number of shares owned by the sellers (or transferors), the purchasers (or transferees) and the beneficial owners both immediately before and after the transaction, and in the case of a loan, (g) the name of the borrower, (h) the amount of the loan, and (i) the name of the bank issuing the stock securing the loan and the number of shares securing the loan. In addition to the foregoing, such reports shall contain such other information as may be available to inform the appropriate Federal banking agency of the effect of the transaction upon control of the bank whose stock is involved.

(4) Whenever such a change as described in paragraph (1) of this subsection occurs, each insured bank shall report promptly to the appropriate Federal banking agency any changes or replacement of its chief executive officer or of any director occurring in the next twelve-month period, including in its report a statement of the past and current business and professional affiliations of the new chief executive officer or directors.

(5) The Comptroller of the Currency shall immediately furnish to the Board of Governors of the Federal Reserve System and to the Federal Deposit Insurance Corporation a copy of any such report required in this subsection and received by him, and the Board of Governors of the Federal Reserve System shall immediately furnish to the Federal Deposit Insurance Corporation a copy of any such report required in this subsection and received by it.

(Sept. 21, 1950, ch. 967, § 2[7], 64 Stat. 876; July 14, 1960, Pub. L. 86-671, §§ 2, 3, 74 Stat. 547, 551; Sept. 12, 1964, Pub. L. 88-593, 78 Stat. 940; Oct. 16, 1966, Pub. L. 89-695, title II, § 201, title III, § 301(b), 80 Stat. 1046, 1055; Dec. 23, 1969, Pub. L. 91-151, § 7(a)(2), 83 Stat. 375; Dec. 31, 1970, Pub. L. 91-609, title IX, § 910(g), (h), 84 Stat. 1812; Oct. 28, 1974, Pub. L. 93-495, title I, §§ 101(a)(2), 102(a)(2), 88 Stat. 1500, 1502.)

REFERENCES IN TEXT

The National Bank Act, referred to in subsec. (h), which is classified generally to chapter 2 (§ 21 et seq.) of this title, is act June 3, 1864, ch. 106, 13 Stat. 99. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

The Federal Reserve Act, referred to in subsec. (h), which is classified generally to chapter 3 (§ 221 et seq.) of this title, is act Dec. 23, 1913, ch. 6, 38 Stat. 251. For complete classification of this Act to the Code, see Distribution note set out under section 226 of this title.

AMENDMENTS

1974—Subsec. (i). Pub. L. 93-495 added exception relating to trust funds owned by a depositor referred to par. (2) of section 1821(a) of this title, and substituted "$40,000" for "$20,000".

1970—Pub. L. 91-609 inserted reference to American Samoa in subsecs. (a)(4) and (b)(5)(B), respectively.

1969—Subsec. (i). Pub. L. 91-151 substituted $20,000 for $15,000 in the first sentence.

1966—Subsec. (i). Pub. L. 89-695, § 301(b), substituted "$15,000" for "$10,000" in the first sentence.

Subsec. (j)(6). Pub. L. 89-695, § 201, repealed par. (6) definition of "appropriate Federal banking agency", now incorporated in section 1813(q) of this title.

1964—Subsec. (j). Pub. L. 88-593 added subsec. (j).

1960—Subsec. (a). Pub. L. 86-671, § 2, amended the provisions of the subsection generally, and among other changes, provided for reports of condition, the form, contents, date of making, number, and publication of the reports of condition, declaration and attestation of officers, penalties, access to reports, computation of deposit liabilities, segregation and classification of deposits and definitions. Former provisions of the subsection relating to rate and amount of assessment, assessment base and deductions therefrom, form and contents of certified statements, and payment of assessments, are either now covered or superseded by provisions incorporated in subsecs. (b)(1), (3), (4), (6) including the last paragraph, and (c)(3) of this section.

Subsec. (b). Pub. L. 86-671, § 2, amended the provisions of the subsection generally, and among other changes, provided for the computation of assessments, the rate and amount, the base, additions and deductions, records and definition. Former provisions of the subsection relating to filing of certified statements of assessment base and amounts due and payment thereof are incorporated in subsec. (c)(1) of this section.

Subsec. (c). Pub. L. 86-671, § 2, added the provisions of pars. (1) and (3), incorporated in par. (2) the provi-

sions of former subsec. (c) relating to exemption from payment of assessment for semiannual period in which bank became an insured bank and amount of first semiannual assessment due, omitted therefrom the provision for inclusion in the assessment base of the assumed liabilities for deposits of other banks, and required the filing of certified statement of the assessment base or the making of a special report of condition.

Subsec. (d). Pub. L. 86-671, § 3, substituted "December 31, 1961" and "33⅓" for "December 31, 1960" and "40", respectively.

Subsec. (f). Pub. L. 86-671, § 3, substituted "fails to make any report of condition under subsection (a) of this section or to file" for "fails to file" and inserted "make such report or" preceding "file such statement".

Subsec. (g). Pub. L. 86-671, § 3, substituted "made any such report of condition under subsection (a) of this section or filed" for "filed" and "to make any such report or file" for "to file" in the first sentence.

Subsec. (h). Pub. L. 86-671, § 3, inserted "to make any report of condition under subsection (a) of this section or" preceding "to file".

Subsec. (i). Pub. L. 86-671, § 3, substituted "in its trust department or held or deposited in any other department of the fiduciary bank" for "in its trust or deposited in any other department or in another bank" in the first sentence and deleted proviso respecting deposit liability of insured bank in which trust funds are deposited rather than deposit liability of depositing fiduciary bank from the second sentence.

EFFECTIVE DATE OF 1974 AMENDMENT

For effective date of amendment of subsec. (i) by section 101(a)(2) of Pub. L. 93-495, see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

For effective date of amendment of subsec. (i) by section 102(a)(2) of Pub. L. 93-495, see section 102(b) and (c) of Pub. L. 93-495, set out as a note under section 1813 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

For effective date of amendment by Pub. L. 91-151, see section 7(b) of Pub. L. 91-151, set out as a note under section 1813 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

For effective date of amendment of subsec. (i) of this section by section 301(b) of Pub. L. 89-695, see section 301(e) of Pub. L. 89-695, set out as a note under section 1813 of this title.

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91-609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811, repealed section 401 of Pub. L. 89-695 which had provided that: "The provisions of titles I and II of this Act [amending sections 1464, 1730, 1813, 1817 to 1820 and repealing section 77 of this title and enacting provisions set out as notes under sections 1464, 1730, and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted."

EFFECTIVE DATE OF 1960 AMENDMENT

Section 7 of Pub. L. 86-671 provided that: "The amendments made by this Act [amending sections 161, 1813, 1817, 1820 and repealing former section 162 of this title] shall take effect on January 1, 1961, except that the certified statements covering the semiannual period ending December 31, 1960, and the determination and payment of assessments (for the semiannual period ending June 30, 1961) required to be certified in such statements, shall be made as if such amendments were not in effect."

CONDITIONS GOVERNING EMPLOYMENT OF PERSONNEL NOT REPEALED, MODIFIED, OR AFFECTED

Nothing contained in section 201 of Pub. L. 89-695 repealing subsec. (j)(6) of this section to be construed as repealing, modifying, or affecting section 1829 of this title, see section 206 of Pub. L. 89-695, set out as a note under section 1813 of this title.

PRIOR PROVISIONS

Section is derived from subsec. (h) of former section 264 of this title. See Codification note under section 1811 of this title.

CROSS REFERENCES

Punishment for false statements to influence action of Federal Deposit Insurance Corporation, see section 1007 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 375a, 1813 of this title.

§ 1818. Termination of status as insured bank

(a) Notice by bank of intention; citation of bank for unsound practices or violations; hearings; judicial review

Any insured bank (except a national member bank or State member bank) may, upon not less than ninety days' written notice to the Corporation, terminate its status as an insured bank. Whenever the Board of Directors shall find that an insured bank or its directors or trustees have engaged or are engaging in unsafe or unsound practices in conducting the business of such bank, or is in an unsafe or unsound condition to continue operations as an insured bank, or violated an applicable law, rule, regulation or order, or any condition imposed in writing by the Corporation in connection with the granting of any application or other request by the bank, or any written agreement entered into with the Corporation the Board of Directors shall first give to the Comptroller of the Currency in the case of a national bank or a district bank, to the authority having supervision of the bank in the case of a State bank, and to the Board of Governors of the Federal Reserve System in the case of a State member bank, a statement with respect to such practices or violations for the purpose of securing the correction thereof and shall give a copy thereof to the bank. Unless such correction shall be made within one hundred and twenty days, or such shorter period not less than twenty days fixed by the Corporation in any case where the Board of Directors in its discretion has determined that the insurance risk of the Corporation is unduly jeopardized, or fixed by the Comptroller of the Currency in the case of a national bank, or the State authority in the case of a State bank, or Board of Governors of the Federal Reserve System in the case of a State member bank as the case may be, the Board of Directors, if it shall determine to proceed further, shall give to the bank not less than thirty days' written notice of intention to terminate the status of the bank as an insured bank, and shall fix a time and place for a hearing before the Board of Directors or before a person designated by it to conduct such hearing, at which evidence may be produced, and

upon such evidence the Board of Directors shall make written findings which shall be conclusive. If the Board of Directors shall find that any unsafe or unsound practice or condition or violation specified in such statement has been established and has not been corrected within the time above prescribed in which to make such corrections, the Board of Directors may order that the insured status of the bank be terminated on a date subsequent to such finding and to the expiration of the time specified in such notice of intention. Unless the bank shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the termination of its status as an insured bank and termination of such status thereupon may be ordered. Any insured bank whose insured status has been terminated by order of the Board of Directors under this subsection shall have the right of judicial review of such order only to the same extent as provided for the review of orders under subsection (h) of this section. The Corporation may publish notice of such termination and the bank shall give notice of such termination to each of its depositors at his last address of record on the books of the bank, in such manner and at such time as the Board of Directors may find to be necessary and may order for the protection of depositors. After the termination of the insured status of any bank under the provisions of this subsection, the insured deposits of each depositor in the bank on the date of such termination, less all subsequent withdrawals from any deposits of such depositor, shall continue for a period of two years to be insured, and the bank shall continue to pay to the Corporation assessments as in the case of an insured bank during such period. No additions to any such deposits and no new deposits in such bank made after the date of such termination shall be insured by the Corporation, and the bank shall not advertise or hold itself out as having insured deposits unless in the same connection it shall also state with equal prominence that such additions to deposits and new deposits made after such date are not so insured. Such bank shall, in all other respects, be subject to the duties and obligations of an insured bank for the period of two years from the date of such termination, and in the event that such bank shall be closed on account of inability to meet the demands of its depositors within such period of two years, the Corporation shall have the same powers and rights with respect to such bank as in case of an insured bank.

(b) Cease-and-desist proceedings

(1) If, in the opinion of the appropriate Federal banking agency, any insured bank or bank which has insured deposits is engaging or has engaged, or the agency has reasonable cause to believe that the bank is about to engage, in an unsafe or unsound practice in conducting the business of such bank, or is violating or has violated, or the agency has reasonable cause to believe that the bank is about to violate, a law, rule, or regulation, or any condition imposed in writing by the agency in connection with the granting of any application or other request by the bank, or any written agreement entered into with the agency, the agency may issue and serve upon the bank a notice of charges in respect thereof. The notice shall contain a statement of the facts constituting the alleged violation or violations or the unsafe or unsound practice or practices, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist therefrom should issue against the bank. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after service of such notice unless an earlier or a later date is set by the agency at the request of the bank. Unless the bank shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease-and-desist order. In the event of such consent, or if upon the record made at any such hearing, the agency shall find that any violation or unsafe or unsound practice specified in the notice of charges has been established, the agency may issue and serve upon the bank an order to cease and desist from any such violation or practice. Such order may, by provisions which may be mandatory or otherwise, require the bank and its directors, officers, employees, and agents to cease and desist from the same, and, further, to take affirmative action to correct the conditions resulting from any such violation or practice.

(2) A cease-and-desist order shall become effective at the expiration of thirty days after the service of such order upon the bank concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided therein, except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

(3) This subsection and subsections (c), (d), (h), (i), (k), *(l)*, (m), and (n) of this section shall apply to any bank holding company, and to any subsidiary (other than a bank) of a holding company, as those terms are defined in the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], in the same manner as they apply to a State member insured bank.

(c) Temporary cease-and-desist orders

(1) Whenever the appropriate Federal banking agency shall determine that the violation or threatened violation or the unsafe or unsound practice or practices, specified in the notice of charges served upon the bank pursuant to paragraph (1) of subsection (b) of this section, or the continuation thereof, is likely to cause insolvency or substantial dissipation of assets or earnings of the bank, or is likely to otherwise seriously prejudice the interests of its depositors, the agency may issue a temporary order requiring the bank to cease and desist from any such violation or practice. Such order shall become effective upon service upon the bank and, unless set aside, limited, or suspended by a court in proceedings authorized by paragraph (2) of this subsection shall remain effective and enforceable pending the completion of the administrative proceedings pursuant to such notice and until such time as the agency shall dismiss the charges specified in such notice, or if a cease-and-desist order is issued against the bank, until the effective date of any such order.

(2) Within ten days after the bank concerned has been served with a temporary cease-and-

desist order, the bank may apply to the United States district court for the judicial district in which the home office of the bank is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the bank under paragraph (1) of subsection (b) of this section, and such court shall have jurisdiction to issue such injunction.

(d) Temporary cease-and-desist orders; enforcement

In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to paragraph (1) of subsection (c) of this section, the appropriate Federal banking agency may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the bank is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

(e) Suspension or removal of director or officer

(1) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured State bank (other than a District bank) has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the agency determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, the agency may serve upon such director or officer a written notice of its intentions to remove him from office.

(2) Whenever, in the opinion of the Comptroller of the Currency, any director or officer of a national banking association or a District bank has committed any violation of law, rule, or regulation, or of a cease-and-desist order which has become final, or has engaged or participated in any unsafe or unsound practice in connection with the bank, or has committed or engaged in any act, omission, or practice which constitutes a breach of his fiduciary duty as such director or officer, and the Comptroller determines that the bank has suffered or will probably suffer substantial financial loss or other damage or that the interests of its depositors could be seriously prejudiced by reason of such violation or practice or breach of fiduciary duty, and that such violation or practice or breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer, the Comptroller of the Currency may certify the facts to the Board of Governors of the Federal Reserve System.

(3) Whenever, in the opinion of the appropriate Federal banking agency, any director or officer of an insured State bank (other than a District bank), by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director or officer and, whenever, in the opinion of the appropriate Federal banking agency, any other person participating in the conduct of the affairs of an insured State bank (other than a District bank), by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such insured bank, the agency may serve upon such director, officer, or other person a written notice of its intention to remove him from office and/or to prohibit his further participation in any manner in the conduct of the affairs of the bank.

(4) Whenever, in the opinion of the Comptroller of the Currency, any director or officer of a national banking association or a District bank, by conduct or practice with respect to another insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to continue as a director or officer and, whenever, in the opinion of the Comptroller, any other person participating in the conduct of the affairs of a national banking association or a District bank, by conduct or practice with respect to such bank or other insured bank or other business institution which resulted in substantial financial loss or other damage, has evidenced his personal dishonesty and unfitness to participate in the conduct of the affairs of such bank, the Comptroller of the Currency may certify the facts to the Board of Governors of the Federal Reserve System.

(5) In respect to any director or officer of an insured State bank (other than a District bank) or any other person referred to in paragraph (1) or (3) of this subsection, the appropriate Federal banking agency may, if it deems it necessary for the protection of the bank or the interests of its depositors, by written notice to such effect served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under paragraph (1) or (3) of this subsection and until such time as the agency shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated.

(6) In respect to any director or officer of a national banking association or a District bank, or any other person referred to in paragraph (2) or (4) of this subsection, the Comptroller of the Currency may, if he deems it necessary for the protection of the bank or the interests of its depositors that such director or officer be suspended from office or prohibited from further participation in any manner in the conduct of the affairs of the bank, certify the facts to the Board of Governors of the Federal Reserve System.

(7) In the case of a certification to the Board of Governors of the Federal Reserve System under paragraph (2) or (4) of this subsection, the Board may serve upon the director, officer, or other person involved, a written notice of its intention to remove him from office and/or to prohibit him from further participation in any manner in the conduct of the affairs of the bank. In the case of a certification to the Board of Governors of the Federal Reserve System under paragraph (6) of this subsection, the Board may by written notice to such effect served upon such director, officer, or other person, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (f) of this section, shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under the first sentence of this paragraph and until such time as the Board shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director or officer or other person, until the effective date of any such order. Copies of any such notice shall also be served upon the bank of which he is a director or officer or in the conduct of whose affairs he has participated. For the purposes of this paragraph and paragraph (8) of this subsection, the Comptroller of the Currency shall be entitled in any case involving a national bank or a District bank to sit as a member of the Board of Governors of the Federal Reserve System and to participate in its deliberations on any such case and to vote thereon in all respects as a member of such Board.

(8) A notice of intention to remove a director, officer, or other person from office and/or to prohibit his participation in the conduct of the affairs of an insured bank, shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than thirty days nor later than sixty days after the date of service of such notice, unless an earlier or a later date is set by the agency at the request of (A) such director or officer or other person, and for good cause shown, or (B) the Attorney General of the United States. Unless such director, officer, or other person shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal and/or prohibition. In the event of such consent, or if upon the record made at any such hearing the agency shall find that any of the grounds specified in such notice has been established, the agency may issue such orders of suspension or removal from office, and/or prohibition from participation in the conduct of the affairs of the bank, as it may deem appropriate. Any such order shall become effective at the expiration of thirty days after service upon such bank and the director, officer, or other person concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by action of the agency or a reviewing court.

(f) Stay of suspension and/or prohibition of director or officer

Within ten days after any director, officer, or other person has been suspended from office and/or prohibited from participation in the conduct of the affairs of an insured bank under subsection (e)(5) or (e)(7) of this section, such director, officer, or other person may apply to the United States district court for the judicial district in which the home office of the bank is located, or the United States District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director, officer, or other person under subsection (e)(1), (e)(3), or (e)(7) of this section, and such court shall have jurisdiction to stay such suspension and/or prohibition.

(g) Suspension or removal of director or officer charged with felony

(1) Whenever any director or officer of an insured bank, or other person participating in the conduct of the affairs of such bank, is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the appropriate Federal banking agency may, by written notice served upon such director, officer, or other person suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the bank. A copy of such notice shall also be served upon the bank. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the agency. In the event that a judgment of conviction with respect to such offense is entered against such director, officer, or other person, and at such time as such judgment is not subject to further appellate review, the agency may issue and serve upon such director, officer, or other person an order removing him from office and/or prohibiting him from further participation in any manner in the conduct of the affairs of the bank except with the consent of the appropriate agency. A copy of such order shall also be served upon such bank, whereupon such director or officer shall cease to be a director or officer of such bank. A finding of not guilty or other disposition of the charge shall not preclude the agency from thereafter instituting proceedings to remove such director, officer, or

other person from office and/or to prohibit further participation in bank affairs, pursuant to paragraph (1), (2), (3), (4), or (7) of subsection (e) of this section.

(2) If at any time, because of the suspension of one or more directors pursuant to this section, there shall be on the board of directors of a national bank less than a quorum of directors not so suspended, all powers and functions vested in or exercisable by such board shall vest in and be exercisable by the director or directors on the board not so suspended, until such time as there be a quorum of the board of directors. In the event all of the directors of a national bank are suspended pursuant to this section, the Comptroller of the Currency shall appoint persons to serve temporarily as directors in their place and stead pending the termination of such suspensions, or until such time as those who have been suspended, cease to be directors of the bank and their respective successors take office.

(h) Hearings and judicial review

(1) Any hearing provided for in this section shall be held in the Federal judicial district or in the territory in which the home office of the bank is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5. Such hearing shall be private, unless the appropriate Federal banking agency, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest. After such hearing, and within ninety days after the appropriate Federal banking agency or Board of Governors of the Federal Reserve System has notified the parties that the case has been submitted to it for final decision, it shall render its decision (which shall include findings of fact upon which its decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection (h). Unless a petition for review is timely filed in a court of appeals of the United States, as hereinafter provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the issuing agency may at any time, upon such notice and in such manner as it shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the agency may modify, terminate, or set aside any such order with permission of the court.

(2) Any party to the proceeding, or any person required by an order issued under this section to cease and desist from any of the violations or practices stated therein, may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the bank or the director or officer or other person concerned, or an order issued under paragraph (1) of subsection (g) of this section) by the filing in the court of appeals of the United States for the circuit in which the home office of the bank is located, or in the United States Court of Appeals for the District of Columbia Circuit, within thirty days after the date of service of such order, a written petition praying that the order of the agency be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the agency, and thereupon the agency shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall except as provided in the last sentence of said paragraph (1) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the agency. Review of such proceedings shall be had as provided in chapter 7 of title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari, as provided in section 1254 of title 28.

(3) The commencement of proceedings for judicial review under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the agency.

(i) Jurisdiction and enforcement

The appropriate Federal banking agency may in its discretion apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the bank is located, for the enforcement of any effective and outstanding notice or order issued under this section, and such courts shall have jurisdiction and power to order and require compliance herewith; but except as otherwise provided in this section no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

(j) Penalties

Any director or officer, or former director or officer of an insured bank, or any other person, against whom there is outstanding and effective any notice or order (which is an order which has become final) served upon such director, officer, or other person under subsections (e)(5), (e)(7), (e)(8), or (g) of this section, and who (i) participates in any manner in the conduct of the affairs of the bank involved, or directly or indirectly solicits or procures, or transfers or attempts to transfer, or votes or attempts to vote, any proxies, consents, or authorizations in respect of any voting rights in such bank, or (ii) without the prior written approval of the appropriate Federal banking agency, votes for a director, serves or acts as a director, officer, or employee of any bank, shall upon conviction be fined not more than $5,000 or imprisoned for not more than one year, or both.

(k) Definitions

As used in this section (1) the terms "cease-and-desist order which has become final" and "order which has become final" mean a cease-and-desist order, or an order, issued by the appropriate Federal banking agency with the consent of the bank or the director or officer or other person concerned, or with respect to which no petition for review of the action of the agency has been filed and perfected in a

court of appeals as specified in paragraph (2) of subsection (h) of this section, or with respect to which the action of the court in which said petition is so filed is not subject to further review by the Supreme Court of the United States in proceedings provided for in said paragraph, or an order issued under paragraph (1) of subsection (g) of this section, and (2) the term "violation" includes without limitation any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(*l*) Notice of service

Any service required or authorized to be made by the appropriate Federal banking agency under this section may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the agency may by regulation or otherwise provide. Copies of any notice or order served by the agency upon any State bank or any director or officer thereof or other person participating in the conduct of its affairs, pursuant to the provisions of this section, shall also be sent to the appropriate State supervisory authority.

(m) Notice to State authorities

In connection with any proceeding under subsection (b), (c)(1), or (e) of this section involving an insured State bank or any director or officer or other person participating in the conduct of its affairs, the appropriate Federal banking agency shall provide the appropriate State supervisory authority with notice of the agency's intent to institute such a proceeding and the grounds therefor. Unless within such time as the Federal banking agency deems appropriate in the light of the circumstances of the case (which time must be specified in the notice prescribed in the preceding sentence) satisfactory corrective action is effectuated by action of the State supervisory authority, the agency may proceed as provided in this section. No bank or other party who is the subject of any notice or order issued by the agency under this section shall have standing to raise the requirements of this subsection as ground for attacking the validity of any such notice or order.

(n) Ancillary provisions; subpena power, etc.

In the course of or in connection with any proceeding under this section, the agency conducting the proceeding, or any member or designated representative thereof, including any person designated to conduct any hearing under this section, shall have the power to administer oaths and affirmations, to take or cause to be taken depositions, and to issue, revoke, quash, or modify subpenas and subpenas duces tecum; and such agency is empowered to make rules and regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory or other place subject to the jurisdiction of the United States at any designated place where such proceeding is being conducted. Any party to proceedings under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpena or subpena duces tecum issued pursuant to this subsection, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an insured bank or a director or officer thereof, may allow to any such party such reasonable expenses and attorneys' fees as it deems just and proper; and such expenses and fees shall be paid by the bank or from its assets.

(o) Termination of membership of State bank in Federal Reserve System

Whenever the insured status of a State member bank shall be terminated by action of the Board of Directors, the Board of Governors of the Federal Reserve System shall terminate its membership in the Federal Reserve System in accordance with the provisions of subchapter VIII of chapter 3 of this title, and whenever the insured status of a national member bank shall be so terminated the Comptroller of the Currency shall appoint a receiver for the bank, which shall be the Corporation. Except as provided in subsection (b) of section 1814 of this title, whenever a member bank shall cease to be a member of the Federal Reserve System, its status as an insured bank shall, without notice or other action by the board of directors, terminate on the date the bank shall cease to be a member of the Federal Reserve System, with like effect as if its insured status had been terminated on said date by the board of directors after proceedings under subsection (a) of this section.

(p) Banks not receiving deposits

Notwithstanding any other provision of law, whenever the Board of Directors shall determine that an insured banking institution is not engaged in the business of receiving deposits, other than trust funds as herein defined, the Corporation shall notify the banking institution that its insured status will terminate at the expiration of the first full semiannual assessment period following such notice. A finding by the Board of Directors that a banking institution is not engaged in the business of receiving deposits, other than such trust funds, shall be conclusive. The Board of Directors shall prescribe the notice to be given by the banking institution of such termination and the Corporation may publish notice thereof. Upon the termination of the insured status of any such banking institution, its deposits shall thereupon cease to be insured and the banking institution shall thereafter be relieved of all future obligations to the Corporation, including the obligation to pay future assessments.

(q) Assumption of liabilities

Whenever the liabilities of an insured bank for deposits shall have been assumed by another insured bank or banks, the insured status of the bank whose liabilities are so assumed shall terminate on the date of receipt by the Corporation of satisfactory evidence of such assumption with like effect as if its insured status

had been terminated on said date by the Board of Directors after proceedings under subsection (a) of this section: *Provided,* That if the bank whose liabilities are so assumed gives to its depositors notice of such assumption within thirty days after such assumption takes effect, by publication or by any reasonable means, in accordance with regulations to be prescribed by the Board of Directors, the insurance of its deposits shall terminate at the end of six months from the date such assumption takes effect. Such bank shall be subject to the duties and obligations of an insured bank for the period its deposits are insured: *Provided further,* That if the deposits are assumed by a newly insured bank, the bank whose deposits are assumed shall not be required to pay any assessment upon the deposits which have been so assumed after the semiannual period in which the assumption takes effect.

(Sept. 21, 1950, ch. 967, § 2[8], 64 Stat. 879; Oct. 16, 1966, Pub. L. 89-695, title II, §§ 202, 204, 80 Stat. 1046, 1054; Oct. 28, 1974, Pub. L. 93-495, title I, § 110, 88 Stat. 1506.)

REFERENCES IN TEXT

The Bank Holding Company Act of 1956, referred to in subsec. (b)(3), is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§ 1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title.

Subchapter VIII of chapter 3 of this title, referred to in subsec. (o), in the original read "section 9 of the Federal Reserve Act". Section 9 is classified to sections 321 to 338 of this title.

AMENDMENTS

1974—Subsec. (b)(3). Pub. L. 93-495 added subsec. (b)(3).

1966—Subsec. (a). Pub. L. 89-695, § 204, enlarged the authority of the Corporation to institute involuntary termination proceedings against an insured bank which had engaged in or whose directors or trustees had engaged in, rather than merely continued unsafe or unsound practices, or was in an unsafe or unsound condition to continue operations as an insured bank, or had violated any law, rule, regulation or order, or any condition imposed in writing by the Corporation or any written agreement entered into with the Corporation; made it clear that the Corporation would be required to give the State authority a copy of the statement dealing the practices or violations where the State bank involved was a State member bank; provided for an alternative and shortened correction period of not less than twenty days in those cases where the Board of Directors of the Corporation on its discretion determined that the insurance risk of the Corporation was unduly jeopardized; provided the State authority with power to shorten the correction period in those cases involving State banks whether member or nonmember banks; transposed the position of the fourth and fifth sentences; and provided a bank whose insured status had been terminated with right of judicial review to the extent provided in subsec. (h) of this section.

Subsecs. (b) to (n). Pub. L. 89-695, § 202, added subsecs. (b) to (n). Former subsecs. (b) to (d) redesignated (o) to (q), respectively.

Subsecs. (o) to (q). Pub. L. 89-695, § 202, redesignated former subsecs. (b) to (d) as (o) to (q), respectively.

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91-609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811, repealed section 401 of Pub. L. 89-695 which had provided that: "The provisions of titles I and II of this Act [amending sections 1464, 1730, 1813, 1817 to 1820 and repealing section 77 of this title and enacting provisions set out as notes under sections 1464, 1730, and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted."

CONDITIONS GOVERNING EMPLOYMENT OF PERSONNEL NOT REPEALED, MODIFIED, OR AFFECTED

Nothing contained in sections 202 and 204 of Pub. L. 89-695 amending this section to be construed as repealing, modifying, or affecting section 1829 of this title, see section 206 of Pub. L. 89-695, set out as a note under section 1813 of this title.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out as a note under section 601 of Title 15, Commerce and Trade, abolished the Reconstruction Finance Corporation.

PRIOR PROVISIONS

Section is derived from subsec. (i) of former section 264 of this title. See Codification note under section 1811 of this title.

CROSS REFERENCES

Enforcement under this section of requirements imposed under section 1601 et seq. of Title 15, see section 1607 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 375a, 1831b, 2804, 2805 of this title; title 15 sections 57a, 78o-4, 78q-1, 1607, 1681s, 1691c.

§ 1819. Incorporation; powers; seal

Upon June 16, 1933, the Corporation shall become a body corporate and as such shall have power—

First. To adopt and use a corporate seal.

Second. To have succession until dissolved by an Act of Congress.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law or equity, State or Federal. All suits of a civil nature at common law or in equity to which the Corporation shall be a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction thereof, without regard to the amount in controversy; and the Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States district court for the district or division embracing the place where the same is pending by following any procedure for removal now or hereafter in effect, except that any such suit to which the Corporation is a party in its capacity as receiver of a State bank and which involves only the rights or obligations of depositors, creditors, stockholders, and such State bank under State law shall not be deemed to arise under the laws of the United States. No attachment or execution shall be issued against the Corporation or its property before final judgment in any suit, action, or proceeding in any State, county, municipal, or United States court. The Board of Directors shall designate an agent upon whom service of process may be

made in any State, Territory, or jurisdiction in which any insured bank is located.

Fifth. To appoint by its Board of Directors such officers and employees as are not otherwise provided for in this chapter, to define their duties, fix their compensation, require bonds of them and fix the penalty thereof, and to dismiss at pleasure such officers or employees. Nothing in this chapter or any other Act shall be construed to prevent the appointment and compensation as an officer or employee of the Corporation of any officer or employee of the United States in any board, commission, independent establishment, or executive department thereof.

Sixth. To prescribe, by its Board of Directors, bylaws not inconsistent with law, regulating the manner in which its general business may be conducted, and the privileges granted to it by law may be exercised and enjoyed.

Seventh. To exercise by its Board of Directors, or duly authorized officers or agents, all powers specifically granted by the provisions of this chapter, and such incidental powers as shall be necessary to carry out the powers so granted.

Eighth. To make examinations of and to require information and reports from banks, as provided in this chapter.

Ninth. To act as receiver.

Tenth. To prescribe by its Board of Directors such rules and regulations as it may deem necessary to carry out the provisions of this chapter.

(Sept. 21, 1950, ch. 967, § 2[9], 64 Stat. 881; Oct. 16, 1966, Pub. L. 89-695, title II, § 205, 80 Stat. 1055.)

AMENDMENTS

1966—Subsec. Fourth. Pub. L. 89-695 vested United States district courts, without regard to the amount in controversy, with original jurisdiction over any action to which the Corporation is a party and authorized the removal of such actions to the Federal courts.

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91-609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811, repealed section 401 of Pub. L. 89-695 which had provided that: "The provisions of titles I and II of this Act [amending sections 1464, 1730, 1813, 1817 to 1820 and repealing section 77 of this title and enacting provisions set out as notes under sections 1464, 1730, and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted."

CONDITIONS GOVERNING EMPLOYMENT OF PERSONNEL NOT REPEALED, MODIFIED, OR AFFECTED

Nothing contained in section 205 of Pub. L. 89-695 amending subsec. Fourth of this section to be construed as repealing, modifying, or affecting section 1829 of this title, see section 206 of Pub. L. 89-695, set out as a note under section 1813 of this title.

PRIOR PROVISIONS

Section is derived from subsec. (j) of former section 264 of this title. See Codification note under section 1811 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 section 5363.

§ 1820. Administration of Corporation

(a) Board of Directors; use of mails; cooperation with other Federal agencies

The Board of Directors shall administer the affairs of the Corporation fairly and impartially and without discrimination. The Board of Directors of the Corporation shall determine and prescribe the manner in which its obligations shall be incurred and its expenses allowed and paid. The Corporation shall be entitled to the free use of the United States mails in the same manner as the executive departments of the Government. The Corporation with the consent of any Federal Reserve bank or of any board, commission, independent establishment, or executive department of the Government, including any field service thereof, may avail itself of the use of information, services, and facilities thereof in carrying out the provisions of this chapter.

(b) Appointment of examiners and claim agents; powers and duties

The Board of Directors shall appoint examiners who shall have power, on behalf of the Corporation, to examine any insured State nonmember bank (except a District bank), any State nonmember bank making application to become an insured bank, and any closed insured bank, whenever in the judgment of the Board of Directors an examination of the bank is necessary. In addition to the examinations provided for in the preceding sentence, such examiners shall have like power to make a special examination of any State member bank and any national bank or District bank, whenever in the judgment of the Board of Directors such special examination is necessary to determine the condition of any such bank for insurance purposes. In making examinations of insured banks, examiners appointed by the Corporation shall have power on behalf of the Corporation to make such examinations of the affairs of all affiliates of such banks as shall be necessary to disclose fully the relations between such banks and their affiliates and the effect of such relations upon such banks. Each examiner shall have power to make a thorough examination of all of the affairs of the bank and its affiliates, and shall make a full and detailed report of the condition of the bank to the Corporation. The Board of Directors in like manner shall appoint claim agents who shall have power to investigate and examine all claims for insured deposits. Each claim agent shall have power to administer oaths and affirmations and to examine and to take and preserve testimony under oath as to any matter in respect to claims for insured deposits, and to issue subpenas and subpenas duces tecum, and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the main office of the bank or affiliate thereof is located, or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpena.

(c) Administration of oaths and affirmations; evidence; issuance and enforcement of subpenas; jurisdiction; affiliate and member bank defined

In connection with examinations of insured banks, and affiliates thereof, the appropriate Federal banking agency, or its designated representatives, shall have the power to administer oaths and affirmations and to examine and to take and preserve testimony under oath as to any matter in respect of the affairs or ownership of any such bank or affiliate thereof, and to issue subpenas and subpenas duces tecum, and, for the enforcement thereof, to apply to the United States district court for the judicial district or the United States court in any territory in which the main office of the bank or affiliate thereof is located, or in which the witness resides or carries on business. Such courts shall have jurisdiction and power to order and require compliance with any such subpena. For purposes of this section, the term "affiliate" shall have the same meaning as where used in section 221a(b) of this title, except that the term "member bank" in said section 221a(b) shall be deemed to refer to an insured bank.

(d) Enforcement of subpenas and orders

In cases of refusal to obey a subpena issued to, or contumacy by, any person, the Board of Directors may invoke the aid of any court of the United States within the jurisdiction of which such hearing, examination or investigation is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, records, or other papers. And such court may issue an order requiring such person to appear before the Board of Directors or member or person designated by the Board of Directors, there to produce records, if so ordered, or to give testimony touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or carries on business or wherever he may be found.

(e) Preservation of records by photography; admissibility as evidence

The Corporation may cause any and all records, papers, or documents kept by it or in its possession or custody to be photographed or microphotographed or otherwise reproduced upon film, which photographic film shall comply with the minimum standards of quality approved for permanent photographic records by the National Bureau of Standards. Such photographs, microphotographs, or photographic film or copies thereof shall be deemed to be an original record for all purposes, including introduction in evidence in all State and Federal courts or administrative agencies and shall be admissible to prove any act, transaction, occurrence, or event therein recorded. Such photographs, microphotographs, or reproduction shall be preserved in such manner as the Board of Directors of the Corporation shall prescribe and the original records, papers, or documents may be destroyed or otherwise disposed of as the Board shall direct.

(Sept. 21, 1950, ch. 967, § 2[10], 64 Stat. 882; July 14, 1960, Pub. L. 86-671, § 4, 74 Stat. 551; Oct. 16, 1966, Pub. L. 89-695, title II, § 203, 80 Stat. 1053; Oct. 15, 1970, Pub. L. 91-452, title II, § 208, 84 Stat. 929.)

AMENDMENTS

1970—Subsec. (d). Pub. L. 91-452 struck out the provisions which granted immunity from prosecution for any individual compelled to testify or produce evidence, documentary or otherwise, after claiming his privilege against self-incrimination.

1966—Subsec. (b). Pub. L. 89-695 empowered Corporation examiners making examinations of insured banks to make such examinations of the affairs of all affiliates of such banks as shall be necessary to disclose fully the relations between such banks and their affiliates and the effect of such relations upon such banks, authorized Corporation claim agents to issue subpenas and subpenas duces tecum in connection with investigation and examination of claims for insured deposits and to apply to the proper United States district court for the enforcement of such subpenas and provided such courts with jurisdiction and power to order and require compliance with any such subpena.

Subsec. (c). Pub. L. 89-695 provided that in connection with examinations of insured banks and affiliates thereof, the appropriate Federal banking agency, or its designated representatives, could administer oaths and affirmations, take and preserve testimony under oath as to any matter in respect of the affairs or ownership of such bank or affiliate thereof, issue subpenas and subpenas duces tecum, and apply to the proper United States district court for the enforcement of such subpenas, provided such courts with jurisdiction and power to order and require compliance with any such subpena, and defined "affiliate" and "member bank".

1960—Subsec. (e). Pub. L. 86-671 redesignated former subsec. (g) as (e) and deleted former subsecs. (e) and (f) which related to reports of condition by insured nonmember State banks and access by Corporation to information of other bank supervisory authorities, which are now covered by sections 1817(a)(1) and (2) of this title, respectively.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-452 effective on the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out in part as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91-609, title IX, § 908, Dec. 31, 1970, 84 Stat. 1811, repealed section 401 of Pub. L. 89-695 which had provided that: "The provisions of titles I and II of this Act [amending sections 1464, 1730, 1813, 1817 to 1820 and repealing section 77 of this title and enacting provisions set out as notes under sections 1464, 1730, and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted."

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-671 effective Jan. 1, 1961, see section 7 of Pub. L. 86-671, set out as a note under section 1817 of this title.

SAVINGS PROVISION

Amendment by Pub. L. 91-452 not to affect any immunity to which any individual is entitled under this section by reason of any testimony given before the sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91-452, set out in part as a note under section 6001 of Title 18, Crimes and Criminal Procedure.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to the Federal Deposit Insurance Corporation, see Parts 1, 17, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

CONDITIONS GOVERNING EMPLOYMENT OF PERSONNEL NOT REPEALED, MODIFIED, OR AFFECTED

Nothing contained in section 203 of Pub. L. 89-695 amending subsecs. (b) and (c) of this section to be construed as repealing, modifying, or affecting section 1829 of this title, see section 206 of Pub. L. 89-695, set out as a note under section 1813 of this title.

PRIOR PROVISIONS

Subsecs. (a), (b), [former] (e), and [former] (f) are derived from subsec. (k) of former section 264 of this title. See Codification note under section 1811 of this title.

CROSS REFERENCES

Immunity of witnesses, see section 6001 et seq. of Title 18, Crimes and Criminal Procedure.

Independence of financial regulatory agencies with respect to submission of views to Congress, see section 250 of this title.

Jurisdiction of district court of the United States of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

Per diem and mileage fees of witnesses, see section 1821 of Title 28.

Punishment for false bank entries, see section 1005 of Title 18, Crimes and Criminal Procedure.

Punishment for performing other services by Federal Deposit Insurance Corporation examiner, see section 1909 of Title 18.

Punishment for perjury, see section 1621 of Title 18.

§ 1821. Permanent Insurance Fund

(a) Composition; amount of deposit insured; insurance of public funds; aggregate amount of public funds

(1) The Temporary Federal Deposit Insurance Fund and the Fund for Mutuals heretofore created pursuant to the provisions of section 12B of the Federal Reserve Act, as amended, are consolidated into a Permanent Insurance Fund for insuring deposits, and the assets therein shall be held by the Corporation for the uses and purposes of the Corporation: *Provided,* That the obligations to and rights of the Corporation, depositors, banks, and other persons arising out of any event or transaction prior to September 21, 1950, shall remain unimpaired. On and after August 23, 1935, the Corporation shall insure the deposits of all insured banks as provided in this chapter: *Provided further,* That the insurance shall apply only to deposits of insured banks which have been made available since March 10, 1933, for withdrawal in the usual course of the banking business: *Provided further,* That if any insured bank shall, without the consent of the Corporation, release or modify restrictions on or deferments of deposits which had not been made available for withdrawal in the usual course of the banking business on or before August 23, 1935, such deposits shall not be insured. Except as provided in paragraph (2), the maximum amount of the insured deposit of any depositor shall be $40,000.

(2)(A) Notwithstanding any limitation in this chapter or in any other provision of law relating to the amount of deposit insurance available for the account of any one depositor, in the case of a depositor who is—

(i) an officer, employee, or agent of the United States having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank;

(ii) an officer, employee, or agent of any State of the United States, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in such State;

(iii) an officer, employee, or agent of the District of Columbia having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in the District of Columbia; or

(iv) an officer, employee, or agent of the Commonwealth of Puerto Rico, of the Virgin Islands, of American Samoa, or of Guam, or of any county, municipality, or political subdivision thereof having official custody of public funds and lawfully investing or depositing the same in time and savings deposits in an insured bank in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, or Guam, respectively;

his deposit shall be insured in an amount not to exceed $100,000 per account.

(B) The Corporation may limit the aggregate amount of funds that may be invested or deposited in time and savings deposits in any insured bank by any depositor referred to in subparagraph (A) of this paragraph on the basis of the size of any such bank in terms of its assets: *Provided, however,* such limitation may be exceeded by the pledging of acceptable securities to the depositor referred to in subparagraph (A) of this paragraph when and where required.

(b) Liquidation as closing of bank

For the purposes of this chapter an insured bank shall be deemed to have been closed on account of inability to meet the demands of its depositors in any case in which it has been closed for the purpose of liquidation without adequate provision being made for payment of its depositors.

(c) Corporation as receiver

Notwithstanding any other provision of law, whenever the Comptroller of the Currency shall appoint a receiver other than a conservator of any insured national bank or insured District bank, or of any noninsured national bank or District bank hereafter closed, he shall appoint the Corporation receiver for such closed bank.

(d) Powers and duties of Corporation as receiver

Notwithstanding any other provision of law, it shall be the duty of the Corporation as such receiver to cause notice to be given, by advertisement in such newspapers as it may direct, to all persons having claims against such closed bank pursuant to section 193 of this title; to realize upon the assets of such closed bank, having due regard to the condition of credit in the locality; to enforce the individual liability of the stockholders and directors thereof; and to wind up the affairs of such closed bank in

conformity with the provisions of law relating to the liquidation of closed national banks, except as herein otherwise provided. The Corporation as such receiver shall pay to itself for its own account such portion of the amounts realized from such liquidation as it shall be entitled to receive on account of its subrogation to the claims of depositors, and it shall pay to depositors and other creditors the net amounts available for distribution to them. The Corporation as such receiver, however, may, in its discretion, pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to section 193 of this title, and no liability shall attach to the Corporation itself or as such receiver by reason of any such payment for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment. With respect to any such closed bank, the Corporation as such receiver shall have all the rights, powers, and privileges now possessed by or hereafter granted by law to a receiver of a national bank or District bank and notwithstanding any other provision of law in the exercise of such rights, powers, and privileges the Corporation shall not be subject to the direction or supervision of the Secretary of the Treasury or the Comptroller of the Currency.

(e) Corporation as receiver of State banks

Whenever any insured State bank (except a District bank) shall have been closed by action of its board of directors or by the authority having supervision of such bank, as the case may be, on account of inability to meet the demands of its depositors, the Corporation shall accept appointment as receiver thereof, if such appointment is tendered by the authority having supervision of such bank and is authorized or permitted by State law. With respect to any such insured State bank, the Corporation as such receiver shall possess all the rights, powers and privileges granted by State law to a receiver of a State bank.

(f) Payment of insured deposits

Whenever an insured bank shall have been closed on account of inability to meet the demands of its depositors, payment of the insured deposits in such bank shall be made by the Corporation as soon as possible, subject to the provisions of subsection (g) of this section either (1) by cash or (2) by making available to each depositor a transferred deposit in a new bank in the same community or in another insured bank in an amount equal to the insured deposit of such depositor: *Provided,* That the Corporation, in its discretion, may require proof of claims to be filed before paying the insured deposits, and that in any case where the Corporation is not satisfied as to the validity of a claim for an insured deposit, it may require the final determination of a court of competent jurisdiction before paying such claim.

(g) Subrogation

In the case of a closed national bank or District bank, the Corporation, upon the payment to any depositor as provided in subsection (f) of this section, shall be subrogated to all rights of the depositor against the closed bank to the extent of such payment. In the case of any other closed insured bank, the Corporation shall not make any payment to any depositor until the right of the Corporation to be subrogated to the rights of such depositor on the same basis as provided in the case of a closed national bank under this chapter shall have been recognized either by express provision of State law, by allowance of claims by the authority having supervision of such bank, by assignment of claims by depositors, or by any other effective method. In the case of any closed insured bank, such subrogation shall include the right on the part of the Corporation to receive the same dividends from the proceeds of the assets of such closed bank and recoveries on account of stockholders' liability as would have been payable to the depositor on a claim for the insured deposit, but such depositor shall retain his claim for any uninsured portion of his deposit: *Provided,* That, with respect to any bank which closes after May 25, 1938, the Corporation shall waive, in favor only of any person against whom stockholders' individual liability may be asserted, any claim on account of such liability in excess of the liability, if any, to the bank or its creditors, for the amount unpaid upon his stock in such bank: but any such waiver shall be effected in such manner and on such terms and conditions as will not increase recoveries or dividends on account of claims to which the Corporation is not subrogated: *Provided further,* That the rights of depositors and other creditors of any State bank shall be determined in accordance with the applicable provisions of State law.

(h) Organization of new bank

As soon as possible after the closing of an insured bank, the Corporation, if it finds that it is advisable and in the interest of the depositors of the closed bank or the public, shall organize a new national bank to assume the insured deposits of such closed bank and otherwise to perform temporarily the functions hereinafter provided for. The new bank shall have its place of business in the same community as the closed bank.

(i) New bank; articles of association and organization certificate; management; acceptance of deposits; funds on deposit with Federal Reserve bank; transaction of business; exemption from taxation

The articles of association and the organization certificate of the new bank shall be executed by representatives designated by the Corporation. No capital stock need be paid in by the Corporation. The new bank shall not have a board of directors, but shall be managed by an executive officer appointed by the Board of Directors of the Corporation who shall be subject to its directions. In all other respects the new bank shall be organized in accordance with the then existing provisions of law relating to the organization of national banking associations. The new bank may, with the approval of the Corporation, accept new deposits which shall be subject to withdrawal on demand and which, except where the new bank is the only bank in the community, shall not exceed $40,000 from any depositor. The new bank, without application to or approval by the Corporation, shall be an insured bank and shall maintain on deposit with the Federal Reserve bank of its district reserves in the amount required by law for

member banks, but it shall not be required to subscribe for stock of the Federal Reserve bank. Funds of the new bank shall be kept on hand in cash, invested in obligations of the United States, or in obligations guaranteed as to principal and interest by the United States, or deposited with the Corporation, with a Federal Reserve bank, or, to the extent of the insurance coverage thereon, with an insured bank. The new bank, unless otherwise authorized by the Comptroller of the Currency, shall transact no business except that authorized by this chapter and as may be incidental to its organization. Notwithstanding any other provision of law the new bank, its franchise, property, and income shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority.

(j) Availability of Corporation's funds to new bank; earnings; losses; assumption of deposits of closed bank

Upon the organization of a new bank, the Corporation shall promptly make available to it an amount equal to the estimated insured deposits of such closed bank plus the estimated amount of the expenses of operating the new bank, and shall determine as soon as possible the amount due each depositor for his insured deposit in the closed bank, and the total expenses of operation of the new bank. Upon such determination, the amounts so estimated and made available shall be adjusted to conform to the amounts so determined. Earnings of the new bank shall be paid over or credited to the Corporation in such adjustment. If any new bank, during the period it continues its status as such, sustains any losses with respect to which it is not effectively protected except by reason of being an insured bank, the Corporation shall furnish to it additional funds in the amount of such losses. The new bank shall assume as transferred deposits the payment of the insured deposits of such closed bank to each of its depositors. Of the amounts so made available, the Corporation shall transfer to the new bank, in cash, such sums as may be necessary to enable it to meet its expenses of operation and immediate cash demands on such transferred deposits, and the remainder of such amounts shall be subject to withdrawal by the new bank on demand.

(k) New bank; issuance of capital stock

Whenever in the judgment of the Board of Directors it is desirable to do so, the Corporation shall cause capital stock of the new bank to be offered for sale on such terms and conditions as the Board of Directors shall deem advisable in an amount sufficient, in the opinion of the Board of Directors, to make possible the conduct of the business of the new bank on a sound basis, but in no event less than that required by section 51 of this title, for the organization of a national bank in the place where such new bank is located. The stockholders of the closed insured bank shall be given the first opportunity to purchase any shares of common stock so offered. Upon proof that an adequate amount of capital stock in the new bank has been subscribed and paid for in cash, the Comptroller of the Currency shall require the articles of association and the organization certificate to be amended to conform to the requirements for the organization of a national bank, and thereafter, when the requirements of law with respect to the organization of a national bank have been complied with, he shall issue to the bank a certificate of authority to commence business, and thereupon the bank shall cease to have the status of a new bank, shall be managed by directors elected by its own shareholders and may exercise all the powers granted by law, and it shall be subject to all the provisions of law relating to national banks. Such bank shall thereafter be an insured national bank, without certification to or approval by the Corporation.

(*l*) New bank; termination

If the capital stock of the new bank is not offered for sale, or if an adequate amount of capital for such new bank is not subscribed and paid for, the Board of Directors may offer to transfer its business to any insured bank in the same community which will take over its assets, assume its liabilities, and pay to the Corporation for such business such amount as the Board of Directors may deem adequate; or the Board of Directors in its discretion may change the location of the new bank to the office of the Corporation or to some other place or may at any time wind up its affairs as herein provided. Unless the capital stock of the new bank is sold or its assets are taken over and its liabilities are assumed by an insured bank as above provided within two years from the date of its organization, the Corporation shall wind up the affairs of such bank, after giving such notice, if any, as the Comptroller of the Currency may require, and shall certify to the Comptroller of the Currency the termination of the new bank. Thereafter the Corporation shall be liable for the obligations of such bank and shall be the owner of its assets. The provisions of sections 181 and 182 of this title shall not apply to such new banks.

(Sept. 21, 1950, ch. 967, § 2[11], 64 Stat. 884; Oct. 16, 1966, Pub. L. 89-695, title III, § 301(c), (d), 80 Stat. 1055; Dec. 23, 1969, Pub. L. 91-151, title I, § 7(a)(3), (4), 83 Stat. 375; Oct. 28, 1974, Pub. L. 93-495, title I, §§ 101(a)(3), 102(a)(3), (4), 88 Stat. 1500, 1502.)

REFERENCES IN TEXT

Section 12B of the Federal Reserve Act, as amended, referred to in subsec. (a), was added to the Federal Reserve Act by act June 16, 1933, ch. 89, § 8, 48 Stat. 168, and withdrawn from the Federal Reserve Act by section 1 of act Sept. 21, 1950. Section 12B originally created the Federal Deposit Insurance Corporation.

CODIFICATION

Subpar. (B) of par. (2) of subsec. (a) of this section was, in the original, designated as "(b)" and has been redesignated as "(B)" editorially in order to conform to the probable intent of Congress.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-495, §§ 101(a)(3), 102(a)(3), redesignated existing provisions as subsec. (a)(1), and, as so redesignated, added exception relating to applicability of par. (2), and substituted "$40,000" for "$20,000".

Subsec. (a)(2). Pub. L. 93-495, § 101(a)(3), added subsec. (a)(2).

Subsec. (i). Pub. L. 93-495, § 102(a)(4), substituted "$40,000" for "$20,000".

1969—Subsec. (a). Pub. L. 91-151, § 7(a)(3), substituted $20,000 for $15,000 in the last sentence.

Subsec. (i). Pub. L. 91-151, § 7(a)(4), substituted $20,000 for $15,000 in the fifth sentence.

1966—Subsec. (a). Pub. L. 89-695, § 301(c), substituted in the last sentence "$15,000" for "$10,000" and deleted therefrom ": *And provided further*, That in the case of banks closing prior to September 21, 1950, the maximum amount of the insured deposit of any depositor shall be $5,000".

Subsec. (i). Pub. L. 89-695, § 301(d), substituted "$15,000" for "$10,000" in the fifth sentence.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of subsec. (a) by section 101(a)(3) of Pub. L. 93-495 effective on the thirtieth day beginning after Oct. 28, 1974, see section 101(g) of Pub. L. 93-495, set out as a note under section 1813 of this title.

Amendment of subsecs. (a) and (i) by section 102(a)(3) and (4) of Pub. L. 93-495 effective on the thirtieth day beginning after Oct. 28, 1974, see section 102(b) and (c) of Pub. L. 93-495, set out as a note under section 1813 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment of subsecs. (a) and (i) of this section by Pub. L. 91-151 not applicable to any claim arising out of the closing of a bank where such closing took place prior to Dec. 23, 1969, see section 7(b) of Pub. L. 91-151, set out as a note under section 1813 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of subsecs. (a) and (i) of this section by Pub. L. 89-695 not applicable to any claim arising out of the closing of a bank where such closing is prior to Oct. 16, 1966, see section 301(e) of Pub. L. 89-695, set out as a note under section 1813 of this title.

PRIOR PROVISIONS

Section is derived from subsec. (*l*) of former section 264 of this title. See Codification note under section 1811 of this title.

CROSS REFERENCES

Security not required from depositories in bankruptcy on insured deposits, see section 101 of Title 11, Bankruptcy.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 197, 1813, 1817 of this title; title 11 section 101.

§ 1822. Corporation as receiver

(a) Bond; appointment of agents; payment of fees and expenses

Notwithstanding any other provision of law, the Corporation as receiver of a closed national bank or District bank shall not be required to furnish bond and shall have the right to appoint an agent or agents to assist it in its duties as such receiver, and all fees, compensation, and expenses of liquidation and administration thereof shall be fixed by the Corporation, and may be paid by it out of funds coming into its possession as such receiver.

(b) Payment of insured deposit as discharge from liability

Payment of an insured deposit to any person by the Corporation shall discharge the Corporation, and payment of a transferred deposit to any person by the new bank or by an insured bank in which a transferred deposit has been made available shall discharge the Corporation and such new bank or other insured bank, to the same extent that payment to such person by the closed bank would have discharged it from liability for the insured deposit.

(c) Recognition of claimant not on bank records

Except as otherwise prescribed by the Board of Directors, neither the Corporation nor such new bank or other insured bank shall be required to recognize as the owner of any portion of a deposit appearing on the records of the closed bank under a name other than that of the claimant, any person whose name or interest as such owner is not disclosed on the records of such closed bank as part owner of said deposit, if such recognition would increase the aggregate amount of the insured deposits in such closed bank.

(d) Withholding payments to meet liability to bank

The Corporation may withhold payment of such portion of the insured deposit of any depositor in a closed bank as may be required to provide for the payment of any liability of such depositor as a stockholder of the closed bank, or of any liability of such depositor to the closed bank or its receiver, which is not offset against a claim due from such bank, pending the determination and payment of such liability by such depositor or any other person liable therefor.

(e) Unclaimed deposits

If, after the Corporation shall have given at least three months' notice to the depositor by mailing a copy thereof to his last-known address appearing on the records of the closed bank, any depositor in the closed bank shall fail to claim his insured deposit from the Corporation within eighteen months after the appointment of the receiver for the closed bank, or shall fail within such period to claim or arrange to continue the transferred deposit with the new bank or with the other insured bank which assumes liability therefor, all rights of the depositor against the Corporation with respect to the insured deposit, and against the new bank and such other insured bank with respect to the transferred deposit, shall be barred, and all rights of the depositor against the closed bank and its shareholders, or the receivership estate to which the Corporation may have become subrogated, shall thereupon revert to the depositor. The amount of any transferred deposits not claimed within such eighteen months' period, shall be refunded to the Corporation.

(Sept. 21, 1950, ch. 967, § 2[12], 64 Stat. 887.)

PRIOR PROVISION

Section is derived from subsec. (m) of former section 264 of this title. See Codification note under section 1811 of this title.

§ 1823. Corporation monies

(a) Investment

Money of the Corporation not otherwise employed shall be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States: *Provided*, That the Corporation shall not sell or purchase any such obligations for its own account and in its own right and interest, at any

one time aggregating in excess of $100,000, without the approval of the Secretary of the Treasury: *And provided further,* That the Secretary of the Treasury may waive the requirement of his approval with respect to any transaction or classes of transactions subject to the provisions of this subsection for such period of time and under such conditions as he may determine.

(b) Banking and checking accounts

The banking or checking accounts of the Corporation shall be kept with the Treasurer of the United States, or, with the approval of the Secretary of the Treasury, with a Federal Reserve bank, or with a bank designated as a depository or fiscal agent of the United States: *Provided,* That the Secretary of the Treasury may waive the requirements of this subsection under such conditions as he may determine: *And provided further,* That this subsection shall not apply to the establishment and maintenance in any bank for temporary purposes of banking and checking accounts not in excess of $50,000 in any one bank, or to the establishment and maintenance in any bank of any banking and checking accounts to facilitate the payment of insured deposits, or the making of loans to, or the purchase of assets of, insured banks. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depositary of public moneys, except receipts from customs, under such regulations as may be prescribed by the said Secretary, and may also be employed as a financial agent of the Government. It shall perform all such reasonable duties as depositary of public moneys and financial agent of the Government as may be required of it.

(c) Loans to closed banks

In order to reopen a closed insured bank or, when the Corporation has determined that an insured bank is in danger of closing, in order to prevent such closing, the Corporation, in the discretion of its Board of Directors, is authorized to make loans to, or purchase the assets of, or make deposits in, such insured bank, upon such terms and conditions as the Board of Directors may prescribe, when in the opinion of the Board of Directors the continued operation of such bank is essential to provide adequate banking service in the community. Such loans and deposits may be in subordination to the rights of depositors and other creditors.

(d) Sale of assets to Corporation

Receivers or liquidators of insured banks closed on account of inability to meet the demands of their depositors shall be entitled to offer the assets of such banks for sale to the Corporation or as security for loans from the Corporation, upon receiving permission from the appropriate State authority in accordance with express provisions of State law in the case of insured State banks. The proceeds of every such sale or loan shall be utilized for the same purposes and in the same manner as other funds realized from the liquidation of the assets of such banks. In any case where prior to September 21, 1950, the Comptroller of the Currency has appointed a receiver of a closed national bank other than the Corporation, he may, in his discretion, pay dividends on proved claims at any time after the expiration of the period of advertisement made pursuant to section 193 of this title, and no liability shall attach to the Comptroller of the Currency or to the receiver of any such national bank by reason of any such payment for failure to pay dividends to a claimant whose claim is not proved at the time of any such payment. The Corporation, in its discretion, may make loans on the security of or may purchase and liquidate or sell any part of the assets of an insured bank which is now or may hereafter be closed on account of inability to meet the demands of its depositors, but in any case in which the Corporation is acting as receiver of a closed insured bank, no such loan or purchase shall be made without the approval of a court of competent jurisdiction.

(e) Loans on assets as security

Whenever in the judgment of the Board of Directors such action will reduce the risk or avert a threatened loss to the Corporation and will facilitate a merger or consolidation of an insured bank with another insured bank, or will facilitate the sale of the assets of an open or closed insured bank to and assumption of its liabilities by another insured bank, the Corporation may, upon such terms and conditions as it may determine, make loans secured in whole or in part by assets of an open or closed insured bank, which loans may be in subordination to the rights of depositors and other creditors, or the Corporation may purchase any such assets or may guarantee any other insured bank against loss by reason of its assuming the liabilities and purchasing the assets of an open or closed insured bank. Any insured national bank or District bank, or the Corporation as receiver thereof, is authorized to contract for such sales or loans and to pledge any assets of the bank to secure such loans.

No agreement which tends to diminish or defeat the right, title or interest of the Corporation in any asset acquired by it under this section, either as security for a loan or by purchase, shall be valid against the Corporation unless such agreement (1) shall be in writing, (2) shall have been executed by the bank and the person or persons claiming an adverse interest thereunder, including the obligor, contemporaneously with the acquisition of the asset by the bank, (3) shall have been approved by the board of directors of the bank or its loan committee, which approval shall be reflected in the minutes of said board or committee, and (4) shall have been, continuously, from the time of its execution, an official record of the bank.

(f) Payment of interest on stock subscriptions

Prior to July 1, 1951, the Corporation shall pay out of its capital account to the Secretary of the Treasury an amount equal to 2 per centum simple interest per annum on amounts advanced to the Corporation on stock subscriptions by the Secretary of the Treasury and the Federal Reserve banks, from the time of such advances until the amounts thereof were repaid. The amount payable hereunder shall be paid in two equal installments, the first installment to be paid prior to December 31, 1950.

(Sept. 21, 1950, ch. 967, § 2[13], 64 Stat. 888.)

PRIOR PROVISIONS

Section is derived from subsec. (n) of former section 264 of this title. See Codification note under section 1811 of this title.

§ 1824. Treasury loans for insurance purposes; amount; rate of interest; public debt transactions

The Corporation is authorized to borrow from the Treasury, and the Secretary of the Treasury is authorized and directed to loan to the Corporation on such terms as may be fixed by the Corporation and the Secretary, such funds as in the judgment of the Board of Directors of the Corporation are from time to time required for insurance purposes, not exceeding in the aggregate $3,000,000,000 outstanding at any one time: *Provided,* That the rate of interest to be charged in connection with any loan made pursuant to this section shall not be less than the current average rate on outstanding marketable and nonmarketable obligations of the United States as of the last day of the month preceding the making of such loan. For such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under the Second Liberty Bond Act, as amended, are extended to include such loans. Any such loan shall be used by the Corporation solely in carrying out its functions with respect to such insurance. All loans and repayments under this section shall be treated as public-debt transactions of the United States.

(Sept. 21, 1950, ch. 967, § 2[14], 64 Stat. 890.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in text, is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

PRIOR PROVISIONS

Section is derived from subsec. (o) of former section 264 of this title. See Codification note under section 1811 of this title.

RETIREMENT AND CANCELLATION OF CAPITAL STOCK; PAYMENTS OF CAPITAL AND SURPLUS TO SECRETARY OF THE TREASURY

Section 1 of act Aug. 5, 1947, ch. 492, 61 Stat. 773, directed the Federal Deposit Insurance Corporation to retire its capital stock by paying the amount received therefor (whether received from the Secretary of the Treasury or the Federal Reserve banks) to the Secretary of the Treasury, to be covered into the Treasury as miscellaneous receipts, with the Corporation to pay to the Secretary so much of its capital and surplus as is in excess of $1,000,000,000, the balance of the amount to be paid to the Secretary in units of $10,000,000 except that the last unit to be paid could be less than $10,000,000.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2712 of this title.

§ 1825. Issuance of notes, debentures, bonds, and other obligations; exemption from taxation

All notes, debentures, bonds, or other such obligations issued by the Corporation shall be exempt, both as to principal and interest, from all taxation (except estate and inheritance taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority: *Provided,* That interest upon or any income from any such obligations and gain from the sale or other disposition of such obligations shall not have any exemption, as such, and loss from the sale or other disposition of such obligations shall not have any special treatment, as such, under the Internal Revenue Code, or laws amendatory or supplementary thereto. The Corporation, including its franchise, its capital, reserves, and surplus, and its income, shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(Sept. 21, 1950, ch. 967, § 2[15], 64 Stat. 890.)

REFERENCES IN TEXT

The Internal Revenue Code, referred to in the text, is classified to Title 26, Internal Revenue Code.

PRIOR PROVISIONS

Section is derived from subsec. (p) of former section 264 of this title. See Codification note under section 1811 of this title.

§ 1826. Forms of obligations; preparation by Secretary of the Treasury

In order that the Corporation may be supplied with such forms of notes, debentures, bonds, or other such obligations as it may need for issuance under this chapter, the Secretary of the Treasury is authorized to prepare such forms as shall be suitable and approved by the Corporation, to be held in the Treasury subject to delivery, upon order of the Corporation. The engraved plates, dies, bed pieces, and other material executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Corporation shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such notes, debentures, bonds, or other such obligations.

(Sept. 21, 1950, ch. 967, § 2[16], 64 Stat. 890.)

PRIOR PROVISIONS

Section is derived from subsec. (q) of former section 264 of this title. See Codification note under section 1811 of this title.

§ 1827. Reports by Corporation; audit of financial transactions; report on audits; employment of certified public accountants for audits

(a) Annual report

The Corporation shall annually make a report of its operations to the Congress as soon as practicable after the 1st day of January in each year.

(b) Audit of Corporation

The financial transactions of the Corporation shall be audited by the General Accounting

Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where accounts of the Corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in possession and custody of the Corporation. The audit shall begin with financial transactions occurring on and after August 31, 1948. The Corporation shall be audited at least once in every three years.

(c) Report of audit

A report of each audit conducted under subsection (b) of this section shall be made by the Comptroller General to the Congress not later than six and one-half months following the close of the last year covered by such audit. The report to the Congress shall set forth the scope of the audit and shall include a statement of assets and liabilities and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expenses; a statement of sources and application of funds and such comments and information as may be deemed necessary to inform Congress of the financial operations and condition of the Corporation, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President, to the Secretary of the Treasury, and to the Corporation at the time submitted to the Congress.

(d) Assistance in audit; costs

For the purpose of conducting such audit the Comptroller General is authorized in his discretion to employ by contract, without regard to section 5 of title 41, professional services of firms and organizations of certified public accountants, with the concurrence of the Corporation, for temporary periods or for special purposes. The Corporation shall reimburse the General Accounting Office for the cost of any such audit as billed therefor by the Comptroller General, and the General Accounting Office shall deposit the sums so reimbursed into the Treasury as miscellaneous receipts.

(Sept. 21, 1950, ch. 967, § 2[17], 64 Stat. 890; Jan. 2, 1975, Pub. L. 93-604, title VI, § 602, 88 Stat. 1963.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 93-604, § 602(a), added provisions that the Corporation shall be audited at least once in every three years.

Subsec. (c). Pub. L. 93-604, § 602(b), substituted provisions that a report of each audit conducted under subsec. (b) of this section shall be made by the Comptroller General to the Congress not later than six and one-half months following the close of previous year covered by such audit, for provisions that a report of the audit for each fiscal year ending on June 30 shall be made by the Comptroller General to the Congress not later than Jan. 15 following the close of such fiscal year.

PRIOR PROVISIONS

Subsec. (a) is derived from subsec. (r) of former section 264 of this title. See Codification note under section 1811 of this title.

§ 1828. Regulations governing insured banks

(a) Display of signs

Every insured bank shall display at each place of business maintained by it a sign or signs, and shall include a statement to the effect that its deposits are insured by the Corporation in all of its advertisements: *Provided,* That the Board of Directors may exempt from this requirement advertisements which do not relate to deposits or when it is impractical to include such statement therein. The Board of Directors shall prescribe by regulation the forms of such signs and the manner of display and the substance of such statements and the manner of use. For each day an insured bank continues to violate any provisions of this subsection or any lawful provisions of said regulations, it shall be subject to a penalty of not more than $100, which the Corporation may recover for its use.

(b) Payment of dividends by defaulting banks

No insured bank shall pay any dividends on its capital stock or interest on its capital notes or debentures (if such interest is required to be paid only out of net profits) or distribute any of its capital assets while it remains in default in the payment of any assessment due to the Corporation; and any director or officer of any insured bank who participates in the declaration or payment of any such dividend or interest or in any such distribution shall, upon conviction, be fined not more than $1,000 or imprisoned not more than one year, or both: *Provided,* That, if such default is due to a dispute between the insured bank and the Corporation over the amount of such assessment, this subsection shall not apply, if such bank shall deposit security satisfactory to the Corporation for payment upon final determination of the issue.

(c) Merger transactions; consent of banking agencies; emergency approval; notice; uniform standards; antitrust actions; review de novo; limitations; report to Congress

(1) Except with the prior written approval of the responsible agency, which shall in every case referred to in this paragraph be the Corporation, no insured bank shall—

(A) merge or consolidate with any noninsured bank or institution;

(B) assume liability to pay any deposits made in, or similar liabilities of, any noninsured bank or institution;

(C) transfer assets to any noninsured bank or institution in consideration of the assumption of liabilities for any portion of the deposits made in such insured bank.

(2) No insured bank shall merge or consolidate with any other insured bank or, either directly or indirectly, acquire the assets of, or assume liability to pay any deposits made in, any other insured bank except with the prior written approval of the responsible agency, which shall be—

(A) the Comptroller of the Currency if the acquiring, assuming, or resulting bank is to be a national bank or a District bank;

(B) the Board of Governors of the Federal Reserve System if the acquiring, assuming, or resulting bank is to be a State member bank (except a District bank);

(C) the Corporation if the acquiring, assuming, or resulting bank is to be a nonmember insured bank (except a District bank).

(3) Notice of any proposed transaction for which approval is required under paragraph (1) or (2) (referred to hereafter in this subsection as a "merger transaction") shall, unless the responsible agency finds that it must act immediately in order to prevent the probable failure of one of the banks involved, be published—

(A) prior to the granting of approval of such transaction,

(B) in a form approved by the responsible agency,

(C) at appropriate intervals during a period at least as long as the period allowed for furnishing reports under paragraph (4) of this subsection, and

(D) in a newspaper of general circulation in the community or communities where the main offices of the banks involved are located, or, if there is no such newspaper in any such community, then in the newspaper of general circulation published nearest thereto.

(4) In the interests of uniform standards, before acting on any application for approval of a merger transaction, the responsible agency, unless it finds that it must act immediately in order to prevent the probable failure of one of the banks involved, shall request reports on the competitive factors involved from the Attorney General and the other two banking agencies referred to in this subsection. The reports shall be furnished within thirty calendar days of the date on which they are requested, or within ten calendar days of such date if the requesting agency advises the Attorney General and the other two banking agencies that an emergency exists requiring expeditious action.

(5) The responsible agency shall not approve—

(A) any proposed merger transaction which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(B) any other proposed merger transaction whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

In every case, the responsible agency shall take into consideration the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the community to be served.

(6) The responsible agency shall immediately notify the Attorney General of any approval by it pursuant to this subsection of a proposed merger transaction. If the agency has found that it must act immediately to prevent the probable failure of one of the banks involved and reports on the competitive factors have been dispensed with, the transaction may be consummated immediately upon approval by the agency. If the agency has advised the Attorney General and the other two banking agencies of the existence of an emergency requiring expeditious actions and has requested reports on the competitive factors within ten days, the transaction may not be consummated before the fifth calendar day after the date of approval by the agency. In all other cases, the transaction may not be consumated before the thirtieth calendar day after the date of approval by the agency.

(7)(A) Any action brought under the antitrust laws arising out of a merger transaction shall be commenced prior to the earliest time under paragraph (6) at which a merger transaction approved under paragraph (5) might be consummated. The commencement of such an action shall stay the effectiveness of the agency's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the issues presented.

(B) In any judicial proceeding attacking a merger transaction approved under paragraph (5) on the ground that the merger transaction alone and of itself constituted a violation of any antitrust laws other than section 2 of title 15, the standards applied by the court shall be identical with those that the banking agencies are directed to apply under paragraph (5).

(C) Upon the consummation of a merger transaction in compliance with this subsection and after the termination of any antitrust litigation commenced within the period prescribed in this paragraph, or upon the termination of such period if no such litigation is commenced therein, the transaction may not thereafter be attacked in any judicial proceeding on the ground that it alone and of itself constituted a violation of any antirust laws other than section 2 of title 15, but nothing in this subsection shall exempt any bank resulting from a merger transaction from complying with the antitrust laws after the consummation of such transaction.

(D) In any action brought under the antitrust laws arising out of a merger transaction approved by a Federal supervisory agency pursuant to this subsection, such agency, and any State banking supervisory agency having jurisdiction within the State involved, may appear

as a part of its own motion and as of right, and be represented by its counsel.

(8) For the purposes of this subsection, the term "antitrust laws" means the Act of July 2, 1890 (the Sherman Antitrust Act), the Act of October 15, 1914 (the Clayton Act), and any other Acts in pari materia.

(9) Each of the responsible agencies shall include in its annual report to the Congress a description of each merger transaction approved by it during the period covered by the report, along with the following information:

(A) the name and total resources of each bank involved;

(B) whether a report was submitted by the Attorney General under paragraph (4), and, if so, a summary by the Attorney General of the substance of such report; and

(C) a statement by the responsible agency of the basis for its approval.

(10) Until June 30, 1976, the responsible agency shall not grant any approval required by law which has the practical effect of permitting a conversion from the mutual to the stock form of organization, including approval of any application pending on the date of enactment of this subsection, except that this sentence shall not be deemed to limit now or hereafter the authority of the responsible agency to grant approvals in cases where the responsible agency finds that it must act in order to maintain the safety, soundness, and stability of an insured bank. The responsible agency may by rule, regulation, or otherwise and under such civil penalties (which shall be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection.

(d) Branch banks

No State nonmember insured bank (except a District bank) shall establish and operate any new branch unless it shall have the prior written consent of the Corporation, and no State nonmember insured bank (except a District bank) shall move its main office or any branch from one location to another without such consent. The factors to be considered in granting or withholding the consent of the Corporation under this subsection shall be those enumerated in section 1816 of this title.

(e) Indemnity insurance

The Corporation may require any insured bank to provide protection and indemnity against burglary, defalcation, and other similar insurable losses. Whenever any insured bank refuses to comply with any such requirement the Corporation may contract for such protection and indemnity and add the cost thereof to the assessment otherwise payable by such bank.

(f) Publication of reports

Whenever any insured bank (except a national bank or a District bank), after written notice of the recommendations of the Corporation based on a report of examination of such bank by an examiner of the Corporation, shall fail to comply with such recommendations within one hundred and twenty days after such notice, the Corporation shall have the power, and is authorized, to publish only such part of such report of examination as relates to any recommendation not complied with: *Provided*, That notice of intention to make such publication shall be given to the bank at least ninety days before such publication is made.

(g) Interest or dividend on demand deposits; definition; regulation of interest rates

The Board of Directors shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and for such purpose it may define the term "demand deposits"; but such exceptions from this prohibition shall be made as are now or may hereafter be prescribed with respect to deposits payable on demand in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the Board of Governors of the Federal Reserve System. The Board of Directors may from time to time, after consulting with the Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board, prescribe rules governing the payment and advertisement of interest or dividends on deposits, including limitations on the rates of interest or dividends that may be paid by insured nonmember banks (including insured mutual savings banks) on time and savings deposits. The Board of Directors may prescribe different rate limitations for different classes of deposits, for deposits of different amounts or with different maturities or subject to different conditions regarding withdrawal or repayment, according to the nature or location of insured nonmember banks or their depositors, or according to such other reasonable bases as the Board of Directors may deem desirable in the public interest. The Board of Directors is authorized for the purposes of this subsection to define the terms "time deposits" and "savings deposits", to determine what shall be deemed a payment of interest, and to prescribe such regulations as it may deem necessary to effectuate the purposes of this subsection and to prevent evasions thereof. Such regulations shall prohibit any insured nonmember bank from paying any time deposit before its maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board of Directors, and from waiving any requirement of notice before payment of any savings deposit except as to all savings deposits having the same requirement. The provisions of this subsection and of regulations issued thereunder shall also apply, in the discretion of the Board of Directors, to obligations other than deposits that are undertaken by insured nonmember banks or their affiliates. As used in this subsection, the term "affiliate" has the same meaning as when used in section 221a(b) of this title, except that the term "member bank", as used in such section 221a(b), shall be deemed to refer to an insured nonmember bank. For each violation of any provision of this subsection or any lawful provision of such regulations relating to the payment of interest or dividends on deposits or to withdrawal of deposits, the offending bank shall be subject to a penalty of not more than $100, which the Corporation may recover for its use. During the period commencing on October 15, 1962, and ending on October 15, 1968, the provisions of this subsection shall not apply to the rate of interest which may be paid by in-

sured nonmember banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member. The authority conferred by this subsection shall also apply to noninsured banks in any State if the total amount of time and savings deposits held in all such banks in the State, plus the total amount of deposits, shares, and withdrawable accounts held in all building and loan, savings and loan, and homestead associations (including cooperative banks) in the State which are not members of a Federal home loan bank, is more than 20 per centum of the total amount of such deposits, shares, and withdrawable accounts held in all banks, and building and loan, savings and loan, and homestead associations (including cooperative banks) in the State. Such authority shall only be exercised by the Board of Directors with respect to such noninsured banks prior to July 31, 1970, to limit the rates of interest or dividends which such banks may pay on time and savings deposits to maximum rates not lower than 5½ per centum per annum. Whenever it shall appear to the Board of Directors that any noninsured bank or any affiliate thereof is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this subsection or of any regulations thereunder, the Board of Directors may, in its discretion, bring an action in the United States district court for the judicial district in which the principal office of the noninsured bank or affiliate thereof is located to enjoin such acts or practices, to enforce compliance with this subsection or any regulations thereunder, or for a combination of the foregoing, and such courts shall have jurisdiction of such actions, and, upon a proper showing, an injunction, restraining order, or other appropriate order may be granted without bond.

(h) Penalties

Any insured bank which willfully fails or refuses to file any certified statement or pay any assessment required under this chapter shall be subject to a penalty of not more than $100 for each day that such violations continue, which penalty the Corporation may recover for its use: *Provided,* That this subsection shall not be applicable under the circumstances stated in the proviso of subsection (b) of this section.

(i) Reduction or retirement of capital stock, notes, or debentures; conversion of insured banks to insured State banks or noninsured institutions; consent of banking agencies

(1) No insured State nonmember bank (except a District bank) shall, without the prior consent of the Corporation, reduce the amount or retire any part of its common or preferred capital stock, or retire any part of its capital notes or debentures.

(2) No insured bank shall convert into an insured State bank if its capital stock or its surplus will be less than the capital stock or surplus, respectively, of the converting bank at the time of the shareholder's meeting approving such conversion, without the prior written consent of—

(A) the Comptroller of the Currency if the resulting bank is to be a District bank;

(B) the Board of Governors of the Federal Reserve System if the resulting bank is to be a State member bank (except a District bank);

(C) the Corporation if the resulting bank is to be a State nonmember insured bank (except a District bank).

(3) Without the prior written consent of the Corporation, no insured bank shall convert into a noninsured bank or institution.

(4) In granting or withholding consent under this subsection, the responsible agency shall consider—

(A) the financial history and condition of the bank,

(B) the adequacy of its capital structure,

(C) its future earnings prospects,

(D) the general character of its management,

(E) the convenience and needs of the community to be served, and

(F) whether or not its corporate powers are consistent with the purposes of this chapter.

(j) Provisions relating to loans and other dealings between member banks and their affiliates applicable to nonmember insured banks; affiliates of nonmember insured banks

The provisions of section 371c of this title relating to loans and other dealings between member banks and their affiliates, shall be applicable to every nonmember insured bank in the same manner and to the same extent as if such nonmember insured bank were a member bank; and for this purpose any company which would be an affiliate of a nonmember insured bank, within the meaning of section 221a of this title and for the purposes of section 371c of this title, if such bank were a member bank shall be deemed to be an affiliate of such nonmember insured bank.

(k) State usury ceilings inapplicable to certain obligations issued by insured nonmember banks and affiliates

No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provisions shall apply to such bank or affiliate or to any other person.

(Sept. 21, 1950, ch. 967, § 2[18], 64 Stat. 891; May 13, 1960, Pub. L. 86-463, 74 Stat. 129; Oct. 15, 1962, Pub. L. 87-827, § 2, 76 Stat. 953; July 21, 1965, Pub. L. 89-79, § 2, 79 Stat. 244; Feb. 21, 1966, Pub. L. 89-356, § 1, 80 Stat. 7; July 1, 1966, Pub. L. 89-485, § 12(c), 80 Stat. 242; Sept. 21, 1966, Pub. L. 89-597, § 3, 80 Stat. 824; Sept. 21, 1968, Pub. L. 90-505, § 2(b), 82 Stat. 856; Dec. 23, 1969, Pub. L. 91-151, title I, §§ 2(a), 4(b), (c),

83 Stat. 372, 374, 375; Aug. 16, 1973, Pub. L. 93-100, § 3, 87 Stat. 342; Oct. 28, 1974, Pub. L. 93-495, title I, § 106, 88 Stat. 1505; Oct. 29, 1974, Pub. L. 93-501, title I, § 102(a), title III, § 302, 88 Stat. 1558, 1560.)

REFERENCES IN TEXT

The "Act of July 2, 1890 (the Sherman Antitrust Act)", referred to in subsec. (c)(8), is classified to sections 1 to 7 of Title 15, Commerce and Trade. See Short Title note set out under section 1 of Title 15.

The "Act of October 15, 1914 (the Clayton Act)", also referred to in subsec. (c)(8), is classified to sections 12, 13, 14 to 19, 20, 21, 22 to 27, and 44 of title 15 and to sections 52 and 53 of Title 29, Labor. See References in Text note set out under section 12 of Title 15.

The date of enactment of this subsection, referred to in subsec. (c)(10), probably means the date of enactment of Pub. L. 93-495, which was approved Oct. 28, 1974.

Section 19 of the Federal Reserve Act, as amended, referred to in subsec. (g), is classified to sections 142, 371a, 371b, 371b-1, 374, 374a, 461, and 463 to 466 of this title. For provisions of section 19 relating to payment of interest on demand deposits, see section 371a of this title.

AMENDMENTS

1974—Subsec. (c)(10). Pub. L. 93-495 added subsec. (c)(10).

Subsec. (g). Pub. L. 93-501, § 102(a), eliminated the requirement that obligations other than deposits undertaken by insured non-member banks be for the purpose of obtaining funds to be used in the banking business in provisions relating to applicability of this subsection and of regulations under the subsection to such obligations.

Subsec. (k). Pub. L. 93-501, § 302, added subsec. (k).

1973—Subsec. (g). Pub. L. 93-100 extended the rulemaking authority of the Board of Directors to the payment and advertisement of dividends on deposits and in the provisions relating to the applicability of the subsection to noninsured banks in the States, eliminated clause designation and struck out provisions of former cl. (2).

1969—Subsec. (g). Pub. L. 91-151 extended the authority of the Board under this subsection to noninsured banks in the States where uninsured savings deposits exceed 20 per cent of the total savings deposits, and, where State laws do not provide for such regulations, empowered the Board up to July 31, 1970, to prevent the rates paid by such noninsured institutions from exceeding 5½ per cent, and further authorized the Board to bring actions in federal courts for compliance, authorized the Board to determine what could be deemed a payment of interest and provided for the promulgation of regulations necessary for the enforcement of the subsection, made the subsection and the regulations thereunder applicable to obligations other than deposits undertaken by insured nonmember banks and their affiliates and extended the regulatory power of the Board to include "dividends".

1968—Subsec. (g). Pub. L. 90-505 gave the Board power to prescribe rules governing the payment and advertisement of interest on deposits.

1966—Subsec. (c). Pub. L. 89-356, § 1(a), laid down more definite guidelines for dealing with the antitrust aspects of bank mergers by prohibiting monopoly bank mergers in all cases, forbidding anticompetitive mergers except in cases where a clear showing is made that a given merger is so beneficial that its allowance is in the public interest, and requiring the uniform application of the law by both judicial and administrative bodies, added provisions to delay the effectiveness of agency approval of merger transactions except in emergency situations, imposed a special statute of limitations for antitrust actions arising out of agency-approved merger transactions thereby precluding antitrust actions when the agency has acted immediately to prevent probable failure of a bank, provided for the automatic staying of the effectiveness of agency action by the commencement of an antitrust action unless the court orders otherwise, called for de novo court review, permitted federal bank agencies which approved a subsequently challenged merger to appear in the suit by its own counsel, allowed state banking agencies to present their views, and added a definition of "antitrust laws" which would include the Sherman Act, the Clayton Act, and any other Acts in pari materia.

Subsec. (g). Pub. L. 89-597 made the authority of the FDIC Board to prescribe maximum permissible rates of interest that may be paid by member banks on time and savings deposits discretionary rather than mandatory, included such payments by insured mutual savings banks, required prior consultations with the Board of Governors of the FRS and the FHLB Board, authorized different rate limitations for different classes of deposits, for deposits of different amounts, or according to such other reasonable bases as the Board may deem desirable in the public interest, and eliminate provision for rate limitation according to the varying discount rates of member banks in the several Federal Reserve districts.

Subsec. (i). Pub. L. 89-356, § 1(b), added subsec. (i).

Subsec. (j). Pub. L. 89-485 added subsec. (j).

1965—Subsec. (g). Pub. L. 89-79 extended until Oct. 15, 1968, the period during which the provisions of this subsection should not apply to the rate of interest which may be paid by insured nonmember banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

1962—Subsec. (g). Pub. L. 87-827 inserted sentence making the subsection inapplicable, during the period commencing on Oct. 15, 1962, and ending upon the expiration of three years after such date, to the rate of interest which may be paid by insured nonmember banks on time deposits of foreign governments, monetary and financial authorities of foreign governments when acting as such, or international financial institutions of which the United States is a member.

1960—Subsec. (c). Pub. L. 86-463 prohibited merger or consolidation of any insured bank with any other insured bank, or acquisition of assets of, or assumption of liability to pay any deposits made in, any other insured bank without prior written consent, required publication of notice of any proposed merger, consolidation, acquisition of assets, or assumption of liabilities, enumerated specific items required to be considered before consent may be granted or withheld, directed the agency involved to request a report on competitive factors involved from the Attorney General and the other two banking agencies referred to in this subsection, and provided for inclusion in the annual report of the Comptroller, the Board and the Corporation of each merger, consolidation, acquisition of assets, or assumption of liabilities approved.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 102(b) of Pub. L. 93-501 provided that: "The amendment made by subsection (a) [amending subsec. (g) of this section] shall not apply to any bank holding company which has filed prior to the date of enactment of this Act [Oct. 29, 1974] an irrevocable declaration with the Board of Governors of the Federal Reserve System to divest itself of all of its banks under section 4 of the Bank Holding Company Act [section 1843 of this title], or to any debt obligation which is an exempted security under section 3(a)(3) of the Securities Act of 1933 [section 77c(a)(3) of Title 15, Commerce and Trade]."

Amendment of subsec. (k) by Pub. L. 93-501 applicable to deposits made or obligations issued in any state after Oct. 29, 1974, but prior to the earlier of July 1, 1977 or the date of enactment by the state of a law limiting the amount of interest which may be charged in connection with such deposits or obligations, see section 304 of Pub. L. 93-501, set out as a note under section 371b-1 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-100 effective on the thirtieth day after Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as a note under section 1469 of this title.

EFFECTIVE AND TERMINATION DATES OF 1969 AMENDMENT

Amendment of subsec. (g) of this section by the addition of three sentences at the end thereof under section 2(a) of Pub. L. 91-151 to be effective only through March 1, 1977, with such three sentences to be repealed effective March 1, 1977, see section 7(3) of Pub. L. 89-597, as amended, set out as a note under section 461 of this title.

EFFECTIVE AND TERMINATION DATES OF 1966 AMENDMENT

Amendment of the 2nd and 3rd sentences of subsec. (g) of this section by section 3 of Pub. L. 89-597 effective only through March 1, 1977, and, effective March 1, 1977, such sentences further amended to read as they would without the amendment made by section 3 of Pub. L. 89-597, see section 7(2) of Pub. L. 89-597, as amended, set out as a note under section 461 of this title.

PRIOR PROVISIONS

Subsecs. (a) to (g) are derived from subsec. (v)(2) to (8) of former section 264 of this title. See Codification note under section 1811 of this title.

INTEREST RATES; CONTROLS

Reduction of interest rates to maximum extent feasible in light of prevailing money market and general economic conditions, see section 1 of Pub. L. 89-597, set out as a note under section 461 of this title.

REINSTATEMENT OF WITHDRAWN OR ABANDONED APPLICATIONS MADE BEFORE FEBRUARY 21, 1966, FOR APPROVAL OF MERGERS

Section 3 of Pub. L. 89-356 provided that: "Any application for approval of a merger transaction (as the term 'merged transaction' is used in section 18(c) of the Federal Deposit Insurance Act) [subsec. (c) of this section] which was made before the date of enactment of this Act [Feb. 21, 1966], but was withdrawn or abandoned as a result of any objections made or any suit brought by the Attorney General, may be reinstituted and shall be acted upon in accordance with the provisions of this Act without prejudice by such withdrawal, abandonment, objections, or judicial proceedings."

SPECIAL ANTITRUST TREATMENT OF MERGER TRANSACTIONS CONSUMMATED BEFORE FEBRUARY 21, 1966, AND OF LITIGATION PENDING ON OR AFTER FEBRUARY 21, 1966, WITH RESPECT TO MERGER TRANSACTIONS CONSUMMATED AFTER JUNE 16, 1963

Section 2 of Pub. L. 89-356 provided that:

"(a) Any merger, consolidation, acquisition of assets, or assumption of liabilities involving an insured bank which was consummated prior to June 17, 1963, the bank resulting from which has not been dissolved or divided and has not effected a sale or distribution of assets and has not taken any other similar action pursuant to a final judgment under the antitrust laws prior to the enactment of this Act [Feb. 21, 1966], shall be conclusively presumed to have not been in violation of any antitrust laws other than section 2 of the Act of July 2, 1890 (section 2 of the Sherman Antitrust Act, 15 U.S.C. 2).

"(b) No merger, consolidation, acquisition of assets, or assumption of liabilities involving an insured bank which was consummated after June 16, 1963, and prior to the date of enactment of this Act [Feb. 21, 1966] and as to which no litigation was initiated by the Attorney General prior to the date of enactment of this Act [Feb. 21, 1966] may be attacked after such date in any judicial proceeding on the ground that it alone and of itself constituted a violation of any antitrust laws other than section 2 of the Act of July 2, 1890 (section 2 of the Sherman Antitrust Act, 15 U.S.C. 2).

"(c) Any court having pending before it on or after the date of enactment of this Act [Feb. 21, 1966] any litigation initiated under the antitrust laws by the Attorney General after June 16, 1963 with respect to the merger, consolidation, acquisition of assets, or assumption of liabilities of an insured bank consummated after June 16, 1963, shall apply the substantive rule of law set forth in section 18(c)(5) of the Federal Deposit Insurance Act [subsec. (c)(5) of this section], as amended by this Act.

"(d) For the purposes of this section, the term 'antitrust laws' means the Act of July 2, 1890 (the Sherman Antitrust Act, 15 U.S.C. 1-7), the Act of October 15, 1914 (the Clayton Act, 15 U.S.C. 12-27), and any other Acts in pari materia."

CROSS REFERENCES

Embezzlement from Federal Deposit Insurance Corporation, see section 657 of Title 18, Crimes and Criminal Procedure.

False advertising of deposit insurance, see section 709 of Title 18.

Jurisdiction of district court of the United States of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 18a.

§ 1829. Conditions governing employment of personnel

Except with the written consent of the Corporation, no person shall serve as a director, officer, or employee of an insured bank who has been convicted, or who is hereafter convicted, of any criminal offense involving dishonesty or a breach of trust. For each willful violation of this prohibition, the bank involved shall be subject to a penalty of not more than $100 for each day this prohibition is violated, which the Corporation may recover for its use.

(Sept. 21, 1950, ch. 967, § 2[19], 64 Stat. 893.)

PROVISIONS NOT REPEALED, MODIFIED OR AFFECTED

Nothing contained in sections 201 to 205 and 207 of Pub. L. 89-695 amending sections 1813 and 1817 to 1820 and repealing former section 77 of this title to be construed as repealing, modifying, or affecting this section, see section 206 of Pub. L. 89-695, set out as a note under section 1813 of this title.

CROSS REFERENCES

Jurisdiction of District Court of the United States of action for penalty, see section 1355 of Title 28, Judiciary and Judicial Procedure.

§ 1829a. Participation by state nonmember insured banks in lotteries and related activities

(a) Prohibited activities

A State nonmember insured bank may not—

(1) deal in lottery tickets;

(2) deal in bets used as a means or substitute for participation in a lottery;

(3) announce, advertise, or publicize the existence of any lottery;

(4) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(b) Use of banking premises prohibited

A State nonmember insured bank may not permit—

(1) the use of any part of any of its banking offices by any person for any purpose forbidden to the bank under subsection (a) of this section, or

(2) direct access by the public from any of its banking offices to any premises used by any person for any purpose forbidden to the bank under subsection (a) of this section.

(c) Definitions

As used in this section—

(1) The term "deal in" includes making, taking, buying, selling, redeeming, or collecting.

(2) The term "lottery" includes any arrangement whereby three or more persons (the "participants") advance money or credit to another in exchange for the possibility or expectation that one or more but not all of the participants (the "winners") will receive by reason of their advances more than the amounts they have advanced, the identity of the winners being determined by any means which includes—

(A) a random selection;

(B) a game, race, or contest; or

(C) any record or tabulation of the result of one or more events in which any participant has no interest except for its bearing upon the possibility that he may become a winner.

(3) The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility), of becoming a winner in a lottery.

(d) Lawful banking services connected with operation of lottery

Nothing contained in this section prohibits a State nonmember insured bank from accepting deposits or cashing or otherwise handling checks or other negotiable instruments, or performing other lawful banking services for a State operating a lottery, or for an officer or employee of that State who is charged with the administration of the lottery.

(e) Regulations; enforcement

The Board of Directors shall prescribe such regulations as may be necessary to the strict enforcement of this section and the prevention of evasions thereof.

(Sept. 21, 1950, ch. 967, § 2[20], as added Dec. 15, 1967, Pub. L. 90-203, § 3, 81 Stat. 610.)

EFFECTIVE DATE

Section effective Apr. 1, 1968, see section 6 of Pub. L. 90-203, set out as a note under section 25a of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1306.

§ 1829b. Retention of records by insured banks

(a) Congressional findings and declaration of purpose

(1) The Congress finds that adequate records maintained by insured banks have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings. The Congress further finds that microfilm or other reproductions and other records made by banks of checks, as well as records kept by banks of the identity of persons maintaining or authorized to act with respect to accounts therein, have been of particular value in this respect.

(2) It is the purpose of this section to require the maintenance of appropriate types of records by insured banks in the United States where such records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

(b) Rules and regulations

Where the Secretary of the Treasury (referred to in this section as the "Secretary") determines that the maintenance of appropriate types of records and other evidence by insured banks has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, he shall prescribe regulations to carry out the purposes of this section.

(c) Identity of persons having accounts and persons authorized to act with respect to such accounts; exemptions

Each insured bank shall maintain such records and other evidence, in such form as the Secretary shall require, of the identity of each person having an account in the United States with the bank and of each individual authorized to sign checks, make withdrawals, or otherwise act with respect to any such account. The Secretary may make such exemptions from any requirement otherwise imposed under this subsection as are consistent with the purposes of this section.

(d) Reproduction of checks, drafts, and other instruments; record of transactions; identity of party

Each insured bank shall make, to the extent that the regulations of the Secretary so require—

(1) a microfilm or other reproduction of each check, draft, or similar instrument drawn on it and presented to it for payment; and

(2) a record of each check, draft, or similar instrument received by it for deposit or collection, together with an identification of the party for whose account it is to be deposited or collected, unless the bank has already made a record of the party's identity pursuant to subsection (c) of this section.

(e) Identity of persons making transactions reportable under Currency and Foreign Transactions Reporting Act

Whenever any individual engages (whether as principal, agent, or bailee) in any transaction with an insured bank which is required to be reported or recorded under the Currency and Foreign Transactions Reporting Act [31 U.S.C. 1051 et seq.], the bank shall require and retain such evidence of the identity of that individual as the Secretary may prescribe as appropriate under the circumstances.

(f) Additions to or substitutes for required records

In addition to or in lieu of the records and evidence otherwise referred to in this section, each insured bank shall maintain such records and evidence as the Secretary may prescribe to carry out the purposes of this section.

(g) Retention period

Any type of record or evidence required under this section shall be retained for such period as the Secretary may prescribe for the type in question. Any period so prescribed shall

not exceed six years unless the Secretary determines, having regard for the purposes of this section, that a longer period is necessary in the case of a particular type of record or evidence.

(h) Report to Congress by Secretary of the Treasury

The Secretary shall include in his annual report to the Congress information on his implementation of the authority conferred by this section and any similar authority with respect to recordkeeping or reporting requirements conferred by other provisions of law.

(Sept. 21, 1950, ch. 967, § 2[21], as added Oct. 26, 1970, Pub. L. 91-508, title I, § 101, 84 Stat. 1114.)

REFERENCES IN TEXT

The Currency and Foreign Transactions Reporting Act, referred in to subsec. (e), is title II of Pub. L. 91-508, Oct. 26, 1970, 84 Stat. 1118, which is classified to chapter 21 (§ 1051 et seq.) of Title 31, Money and Finance.

EFFECTIVE DATE

Section effective on the first day of the seventh calendar month which begins after Oct. 26, 1970, except that the Secretary of the Treasury may, by regulation, provide that this section be effective on any date not earlier than the publication of such regulations in the Federal Register and not later than the first day of the thirteenth calendar month which begins after Oct. 26, 1970, see section 401(a) and (b) of Pub. L. 91-508, set out as a note under section 1051 of Title 31, Money and Finance.

ADDITIONAL CRIMINAL PENALTIES

Willful violation of regulations under this section punishable by fine of not more than $10,000 or imprisonment of not more than five years, or both, when such willful violation is committed in furtherance of the commission of any violation of federal law punishable by imprisonment of more than one year, see section 1957 of this title.

ADMINISTRATIVE PROCEDURE

Administrative procedure and judicial review provisions of subchapter II (§ 551 et seq.) of chapter 5 and chapter 7 (§ 701 et seq.) of Title 5, Government Organization and Employees, applicable to all proceedings under this section, see section 1959 of this title.

RESPONSIBILITY FOR COMPLIANCE

Responsibility for the Secretary of the Treasury to assure compliance with requirements of this section, and Secretary's authority to delegate such responsibility to the appropriate bank supervisory agency, or other supervisory agency, see section 1958 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1730d, 1953, 1957, 1958, 1959 of this title; title 31 section 1083.

§ 1830. Policy of nondiscrimination against nonmember banks

It is not the purpose of this chapter to discriminate in any manner against State nonmember banks and in favor of national or member banks; but the purpose is to provide all banks with the same opportunity to obtain and enjoy the benefits of this chapter. No bank shall be discriminated against because its capital stock is less than the amount required for eligibility for admission into the Federal Reserve System.

(Sept. 21, 1950, ch. 967, § 2[22], formerly § 2 [20], 64 Stat. 893, renumbered § 2 [21], Dec. 15, 1967, Pub. L. 90-203, § 3, 81 Stat. 610, renumbered § 2 [22], Oct. 26, 1970, Pub. L. 91-508, title I, § 101, 84 Stat. 1114.)

PRIOR PROVISIONS

Section is derived from subsec. (y) of former section 264 of this title. See Codification note under section 1811 of this title.

§ 1831. Separability of certain provisions of this chapter

The provisions of this chapter limiting the insurance of the deposits of any depositor to a maximum less than the full amount shall be independent and separable from each and all of the provisions of this chapter.

(Sept. 21, 1950, ch. 967, § 2[23], formerly § 2 [21], 64 Stat. 894, renumbered § 2 [22], Dec. 15, 1967, Pub. L. 90-203, § 3, 81 Stat. 610, renumbered § 2 [23], Oct. 26, 1970, Pub. L. 91-508, title I, § 101, 84 Stat. 1114.)

PRIOR PROVISIONS

Section is derived from subsec. (z) of former section 264 of this title. See Codification note under section 1811 of this title.

§ 1831a. State-chartered insured banks

(a) Interest rates

In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charged on any loan or discount made, or upon any note, bill or[1] exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

(b) Interest overcharge; forfeiture; interest payment recovery

If the rate prescribed in subsection (a) of this section exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a) of this section, the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) of this section, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.

[1] So in original, probably should be "of".

(Sept. 21, 1950, ch. 967, § 2[24], as added Oct. 29, 1974, Pub. L. 93-501, title II, § 202, 88 Stat. 1558.)

EFFECTIVE DATE

Section 206 of Pub. L. 93-501 provided that: "The amendments made by this title [which enacted this section and section 1730e of this title, amended section 85 of this title and section 687 of Title 15, Commerce and Trade, and enacted provisions set out as a note under this section] shall apply to any loan made in any State after the date of enactment of this title [Oct. 29, 1974], but prior to the earlier of July 1, 1977, or the date (after the date of enactment of this title) on which the State enacts a provision of law which prohibits the charging of interest at the rate provided in the amendments made by this title."

SEPARABILITY OF PROVISIONS

Section 205 of Pub. L. 93-501 provided that: "If any provision of this title [which enacted this section and section 1730e of this title, amended section 85 of this title and section 687 of Title 15, Commerce and Trade, and enacted provisions set out as a note under this section] or the application of such provisions to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby."

§ 1831b. Disclosures with respect to certain federally related mortgage loans

(a) Identity of beneficiary interest as condition for a loan; report of bank to Corporation

No insured bank, or mutual savings or cooperative bank which is not an insured bank, shall make any federally related mortgage loan to any agent, trustee, nominee, or other person acting in a fiduciary capacity without the prior condition that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the bank. At the request of the Corporation, the bank shall report to the Corporation on the identity of such person and the nature and amount of the loan, discount, or other extension of credit.

(b) Enforcement; bank status

In addition to other available remedies, this section may be enforced with respect to mutual savings and cooperative banks which are not insured banks in accordance with section 1818 of this title, and for such purpose such mutual savings and cooperative banks shall be held and considered to be State nonmember insured banks and the appropriate Federal agency with respect to such mutual savings and cooperative banks shall be the Federal Deposit Insurance Corporation.

(Sept. 21, 1950, ch. 967, § 2[25], as added Dec. 22, 1974, Pub. L. 93-533, § 11(a), 88 Stat. 1729.)

EFFECTIVE DATE

Section effective 180 days after Dec. 22, 1974, see section 19 of Pub. L. 93-533, set out as a note under section 2601 of this title.

EXEMPTIONS; REGULATIONS

Exemption by regulation of classes and transactions from provisions of this section, see section 11(c) of Pub. L. 93-533, set out as a note under section 1730f of this title.

§ 1832. Prohibition on certain activities by depository institutions

(a) Withdrawal by negotiable or transferable instruments; exceptions

No depository institution shall allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties, except that such withdrawals may be made in the States of Massachusetts, Connecticut, Rhode Island, Maine, Vermont, and New Hampshire.

(b) Definition

For purposes of this section, the term "depository institution" means—

(1) any insured bank as defined in section 1813 of this title;

(2) any State bank as defined in section 1813 of this title;

(3) any mutual savings bank as defined in section 1813 of this title;

(4) any savings bank as defined in section 1813 of this title;

(5) any insured institution as defined in section 1724 of this title; and

(6) any building and loan association or savings and loan association organized and operated according to the laws of the State in which it is chartered or organized; and, for purposes of this paragraph, the term "State" means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands.

(c) Fine

Any depository institution which violates this section shall be fined $1,000 for each violation.

(Pub. L. 93-100, § 2, Aug. 16, 1973, 87 Stat. 342; Pub. L. 94-222, § 2, Feb. 27, 1976, 90 Stat. 197.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-222 authorized withdrawals by negotiable or transferable instruments in the States of Connecticut, Rhode Island, Maine, and Vermont.

EFFECTIVE DATE

Section effective on the thirtieth day after Aug. 16, 1973, see section 8 of Pub. L. 93-100, set out as a note under section 1469 of this title.

CHAPTER 17—BANK HOLDING COMPANIES

Sec.

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(b) Antitrust proceedings; stay of approval by Board; review de novo; judicial standards; limitations; exemptions.
(c) Antitrust proceedings; Board and State banking agency as party; representation by counsel.
(d) Treatment of merger transactions consummated prior or subsequent to May 9, 1956, and not in litigation prior to July 1, 1966.
(e) Antitrust litigation; substantive law applicable to proceedings pending on or after July 1, 1966 with respect to merger transactions.
(f) Definition of "antitrust laws".
1850. Acquisition of subsidiary, nonbanking activity or business, and tying arrangement: Federal Reserve Board proceedings; application for authorization; competitor as party in interest and person aggrieved; judicial review.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 304, 371c, 1818 of this title; title 15 section 80b-2; title 26 sections 311, 6158.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 47-1580 of the District of Columbia Code.

§ 1841. Definitions

(a)(1) Except as provided in paragraph (5) of this subsection, "bank holding company" means any company which has control over any bank or over any company that is or becomes a bank holding company by virtue of this chapter.

(2) Any company has control over a bank or over any company if—

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per centum or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the Board determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management or policies of the bank or company.

(3) For the purposes of any proceeding under paragraph (2)(C) of this subsection, there is a presumption that any company which directly or indirectly owns, controls, or has power to vote less than 5 per centum of any class of voting securities of a given bank or company does not have control over that bank or company.

(4) In any administrative or judicial proceeding under this chapter, other than a proceeding under paragraph (2)(C) of this subsection, a company may not be held to have had control over any given bank or company at any given time unless that company, at the time in question, directly or indirectly owned, controlled, or had power to vote 5 per centum or more of any class of voting securities of the bank or company, or had already been found to have control in a proceeding under paragraph (2)(C).

(5) Notwithstanding any other provision of this subsection—

(A) No bank and no company owning or controlling voting shares of a bank is a bank holding company by virtue of its ownership or control of shares in a fiduciary capacity, except as provided in paragraphs (2) and (3) of subsection (g) of this section. For the purpose of the preceding sentence, bank shares shall not be deemed to have been acquired in a fiduciary capacity if the acquiring bank or company has sole discretionary authority to exercise voting rights with respect thereto; except that this limitation is applicable in the case of a bank or company acquiring such shares prior to December 31, 1970, only if the bank or company has the right consistent with its obligations under the instrument, agreement, or other arrangement establishing the fiduciary relationship to divest itself of such voting rights and fails to exercise that right to divest within a reasonable period not to exceed one year after December 31, 1970.

(B) No company is a bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities if such shares are held only for such period of time as will permit the sale thereof on a reasonable basis.

(C) No company formed for the sole purpose of participating in a proxy solicitation is a bank holding company by virtue of its control of voting rights of shares acquired in the course of such solicitation.

(D) No company is a bank holding company by virtue of its ownership or control of shares acquired in securing or collecting a debt previously contracted in good faith, until two years after the date of acquisition.

(E) No company is a bank holding company by virtue of its ownership or control of any State chartered bank or trust company which is wholly owned by thrift institutions and which restricts itself to the acceptance of deposits from thrift institutions, deposits arising out of the corporate business of its owners, and deposits of public moneys.

(F) No trust company or mutual savings bank which is an insured bank under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] is a bank holding company by virtue of its direct or indirect ownership or control of one bank located in the same State, if (i) such

ownership or control existed on December 31, 1970, authorized by applicable State law, and (ii) the trust company or mutual savings bank does not after that date acquire an interest in any company that, together with any other interest it holds in that company, will exceed 5 per centum of any class of the voting shares of that company, except that this limitation shall not be applicable to investments of the trust company or mutual savings bank, direct and indirect, which are otherwise in accordance with the limitations applicable to national banks under section 24 of this title.

(6) For the purposes of this chapter, any successor to a bank holding company shall be deemed to be a bank holding company from the date on which the predecessor company became a bank holding company.

(b) "Company" means any corporation, partnership, business trust, association, or similar organization, or any other trust unless by its terms it must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust but shall not include any corporation the majority of the shares of which are owned by the United States or by any State. "Company covered in 1970" means a company which becomes a bank holding company as a result of the enactment of the Bank Holding Company Act Amendments of 1970 and which would have been a bank holding company on June 30, 1968, if those amendments had been enacted on that date.

(c) "Bank" means any institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands which (1) accepts deposits that the depositor has a legal right to withdraw on demand, and (2) engages in the business of making commercial loans. Such term does not include any organization operating under section 25 or section 25 (a) of the Federal Reserve Act, or any organization which does not do business within the United States except as an incident to its activities outside the United States. "District bank" means any bank organized or operating under the Code of Law for the District of Columbia.

(d) "Subsidiary", with respect to a specified bank holding company, means (1) any company 25 per centum or more of whose voting shares (excluding shares owned by the United States or by any company wholly owned by the United States) is directly or indirectly owned or controlled by such bank holding company, or is held by it with power to vote; (2) any company the election of a majority of whose directors is controlled in any manner by such bank holding company; or (3) any company with respect to the management of policies of which such bank holding company has the power, directly or indirectly, to exercise a controlling influence, as determined by the Board, after notice and opportunity for hearing.

(e) The term "successor" shall include any company which acquires directly or indirectly from a bank holding company shares of any bank, when and if the relationship between such company and the bank holding company is such that the transaction effects no substantial change in the control of the bank or beneficial ownership of such shares of such bank. The Board may, by regulation, further define the term "successor" to the extent necessary to prevent evasion of the purposes of this chapter.

(f) "Board" means the Board of Governors of the Federal Reserve System.

(g) For the purposes of this chapter—

(1) shares owned or controlled by any subsidiary of a bank holding company shall be deemed to be indirectly owned or controlled by such bank holding company;

(2) shares held or controlled directly or indirectly by trustees for the benefit of (A) a company, (B) the shareholders or members of a company, or (C) the employees (whether exclusively or not) of a company, shall be deemed to be controlled by such company; and

(3) shares transferred after January 1, 1966, by any bank holding company (or by any company which, but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor, or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the Board, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

(h) The application of this chapter and of section 371c of this title shall not be affected by the fact that a transaction takes place wholly or partly outside the United States or that a company is organized or operates outside the United States: *Provided, however,* That the prohibitions of section 1843 of this title shall not apply to shares of any company organized under the laws of a foreign country that does not do any business within the United States, if such shares are held or acquired by a bank holding company that is principally engaged in the banking business outside the United States.

(i) The term "thrift institution" means (1) a domestic building and loan or savings and loan association, (2) a cooperative bank without capital stock organized and operated for mutual purposes and without profit, or (3) a mutual savings bank not having capital stock represented by shares.

(May 9, 1956, ch. 240, § 2, 70 Stat. 133; July 1, 1966, Pub. L. 89-485, §§ 1-6, 80 Stat. 236, 237; Dec. 31, 1970, Pub. L. 91-607, title I, § 101, 84 Stat. 1760.)

REFERENCES IN TEXT

The Federal Deposit Insurance Act, referred to in subsec. (a)(5)(F), is classified generally to chapter 16 (§ 1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title.

"Enactment of the Bank Holding Company Act Amendments of 1970", referred to in subsec. (b), means enactment of Pub. L. 91-607, on Dec. 31, 1970. For classification of Pub. L. 91-607, see Short Title note under this section.

Section 25 of the Federal Reserve Act, referred to in subsec. (c), is classified to subchapter I (§ 601 et seq.) of chapter 6 of this title. Section 25(a) of the Federal Reserve Act is classified to subchapter II (§ 611 et seq.) of chapter 6 of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-607, § 101(a), in revising the provisions, added par. (1) definition of bank holding company; incorporated provisions of former cl. (1) in provisions designated as par. (2)(A), inserting text respecting company acting through one or more other persons, substituting "power to vote" for "holds with power to vote" and provision for voting of any class of voting securities of the bank or company for prior provision for voting of voting shares of each of two or more banks; incorporated former provisions of former cl. (2) in provisions designated as par. (2)(B), providing for election of trustees and substituting bank or company for directors of each of two or more banks designated cl. (A) as par. (5)(A), adding provision that acquisition of shares shall not be deemed acquisition of shares in a fiduciary capacity if the banks or company has sole discretionary authority to exercise voting rights with respect thereto, and making such limitation applicable to bank or company acquiring the shares prior to Dec. 31, 1970, where there is right of divestiture of voting rights and there is a failure to exercise that right within reasonable time not exceeding one year after Dec. 31, 1970; incorporated former cls. (B) and (C) in provisions designated as pars. (5)(B) and (C); added par. (5)(D) to (F); and designated concluding part of first sentence as par. (6), substituting "from the date on which" for "from the date as of which".

Subsec. (b). Pub. L. 91-607, § 101(b), redefined term "company" to include "partnership", which has been expressly excluded, and added definition of "company covered in 1970".

Subsec. (c). Pub. L. 91-607, § 101(c), redefined term "bank" to mean any institution organized under Federal, State, District of Columbia, etc., laws, designated existing provisions as cl. (1), added cl. (2), and excepted from exclusion from such term an organization which does business within the United States as an incident to its activities outside the United States.

Subsec. (d)(3). Pub. L. 91-607, § 101(d), added cl. (3).

Subsec. (i). Pub. L. 91-607, § 101(e), added subsec. (i).

1966—Subsec. (a). Pub. L. 89-485, § 1, struck out provision placing within the classification of bank holding company any company for the benefit of whose shareholders or members 25 per centum or more of the voting shares of each of two or more banks or a bank holding company is held by trustees, struck out provision exempting from classification as bank holding companies any companies that are registered under the Investment Company Act of 1940, and were so registered prior to May 15, 1955 (or which is affiliated with any such company in such manner as to constitute an affiliated company within the meaning of that Act), unless that company (or affiliated company), as the case may be, directly owns 25 per centum or more of the voting shares of each of two or more banks, struck out provision exempting from classification as bank holding companies any companies having 80 per centum or more of their total assets composed of holdings in the field of agriculture, substituted voting shares for shares in the description of the securities the ownership or control of which, in a fiduciary capacity, would be exempted from causing the formation of a bank holding company, added "company" to "bank" as the business entities eligible for the fiduciary ownership exemption, and inserted reference in the fiduciary ownership exemption to pars. (2) and (3) of subsec. (g) of this section.

Subsec. (b). Pub. L. 89-485, § 2, exempted from the definition of "company" any trust which by its terms must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust, and struck out the exemption formerly granted to nonprofit religious, charitable, and educational organizations.

Subsec. (c). Pub. L. 89-485, § 3, substituted "any institution that accepts deposits that the depositor has a legal right to withdraw on demand" for "any national banking institution or any state bank, savings bank, or trust company" in the definition of "bank" and extended the exemption for foreign banking corporations to include "agreement" foreign banking corporations under section 25 of the Federal Reserve Act.

Subsec. (d). Pub. L. 89-485, § 4, added indirect ownership or control and the holding of power to vote to direct ownership or control as the methods by which the holding of 25 per centum or more of voting shares in a company will qualify that company as a subsidiary, and struck out provisions under which any company 25 per centum or more of whose voting shares are held by trustees for the benefit of the shareholders or members of a bank holding company qualifies as a subsidiary.

Subsec. (g). Pub. L. 89-485, §§ 5, 6, substituted provisions setting out the treatment to be accorded shares owned or controlled by subsidiaries of bank holding companies, shares held or controlled by trustees for the benefit of companies, shareholders or members of companies, and employees of companies, and shares transferred after January 1, 1966, by bank holding companies to transferees that are indebted to the transferor or have one or more officers, directors, trustees, or beneficiaries in common with the transferor for provisions defining "agriculture".

Subsec. (h). Pub. L. 89-485, § 6, added subsec. (h).

SHORT TITLE OF 1970 AMENDMENT

Section 1 of Pub. L. 91-607 provided: "That this Act [which enacted chapter 22 (section 1971 et seq.) and section 1850 of this title and sections 324b and 324c of Title 31, Money and Finance, amended sections 1841 to 1843 and 1849 of this title and sections 324, 391 of title 31, repealed sections 316 and 458 of title 31, enacted provisions set out as notes under sections 317e and 391 of title 31, and amended provisions set out as a note under section 405a-1 of title 31] may be cited as the 'Bank Holding Company Act Amendments of 1970'."

SHORT TITLE

Congress in enacting this chapter and sections 1101 to 1103 of Title 26, Internal Revenue Code of 1954, provided by section 1 of act May 9, 1956, that these provisions shall be popularly known as the "Bank Holding Company Act of 1956".

SAVINGS CLAUSE

Section 11 of act May 9, 1956, provided that: "Nothing herein contained shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any prohibited antitrust or monopolistic act, action, or conduct."

SEPARABILITY OF PROVISIONS

Section 12 of act May 9, 1956, provided that: "If any provision of this Act [enacting this chapter and sections 1101 to 1103 of Title 26, Internal Revenue Code of 1954], or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1842, 1843, 1971 of this title; title 15 section 78c; title 26 section 1101.

§ 1842. Acquisition of bank shares or assets

(a) Prior approval of Board as necessary; exceptions; subsequent approval or disposition upon disapproval

It shall be unlawful, except with the prior approval of the Board, (1) for any action to be taken that causes any company to become a

bank holding company; (2) for any action to be taken that causes a bank to become a subsidiary of a bank holding company; (3) for any bank holding company to acquire direct or indirect ownership or control of any voting shares of any bank if, after such acquisition, such company will directly or indirectly own or control more than 5 per centum of the voting shares of such bank; (4) for any bank holding company or subsidiary thereof, other than a bank, to acquire all or substantially all of the assets of a bank; or (5) for any bank holding company to merge or consolidate with any other bank holding company. Notwithstanding the foregoing this prohibition shall not apply to (A) shares acquired by a bank, (i) in good faith in a fiduciary capacity, except where such shares are held under a trust that constitutes a company as defined in section 1841(b) of this title and except as provided in paragraphs (2) and (3) of section 1841(g) of this title, or (ii) in the regular course of securing or collecting a debt previously contracted in good faith, but any shares acquired after May 9, 1956, in securing or collecting any such previously contracted debt shall be disposed of within a period of two years from the date on which they were acquired; or (B) additional shares acquired by a bank holding company in a bank in which such bank holding company owned or controlled a majority of the voting shares prior to such acquisition. For the purpose of the preceding sentence, bank shares acquired after December 31, 1970, shall not be deemed to have been acquired in good faith in a fiduciary capacity if the acquiring bank or company has sole discretionary authority to exercise voting rights with respect thereto, but in such instances acquisitions may be made without prior approval of the Board if the Board, upon application filed within ninety days after the shares are acquired, approves retention or, if retention is disapproved, the acquiring bank disposes of the shares or its sole discretionary voting rights within two years after issuance of the order of disapproval.

(b) Application for approval; notice to Comptroller of Currency or State authority; disapproval; hearing; order of Board; nonaction deemed grant of application

Upon receiving from a company any application for approval under this section, the Board shall give notice to the Comptroller of the Currency, if the applicant company or any bank the voting shares or assets of which are sought to be acquired is a national banking association or a District bank, or to the appropriate supervisory authority of the interested State, if the applicant company or any bank the voting shares or assets of which are sought to be acquired is a State bank, and shall allow thirty days within which the views and recommendations of the Comptroller of the Currency or the State supervisory authority, as the case may be, may be submitted. If the Comptroller of the Currency or the State supervisory authority so notified by the Board disapproves the application in writing within said thirty days, the Board shall forthwith give written notice of that fact to the applicant. Within three days after giving such notice to the applicant, the Board shall notify in writing the applicant and the disapproving authority of the date for commencement of a hearing by it on such application. Any such hearing shall be commenced not less than ten nor more than thirty days after the Board has given written notice to the applicant of the action of the disapproving authority. The length of any such hearing shall be determined by the Board, but it shall afford all interested parties a reasonable opportunity to testify at such hearing. At the conclusion thereof, the Board shall by order grant or deny the application on the basis of the record made at such hearing. In the event of the failure of the Board to act on any application for approval under this section within the ninety-one-day period which begins on the date of submission to the Board of the complete record on that application, the application shall be deemed to have been granted.

(c) Factors governing determination of application for approval

The Board shall not approve—

(1) any acquisition or merger or consolidation under this section which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States, or

(2) any other proposed acquisition or merger or consolidation under this section whose effect in any section of the country may be substantially to lessen competition, or to tend to create a monopoly, or which in any other manner would be in restraint or[1] trade, unless it finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

In every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company or companies and the banks concerned, and the convenience and needs of the community to be served.

(d) Limitation by State boundaries

Notwithstanding any other provision of this section, no application shall be approved under this section which will permit any bank holding company or any subsidiary thereof to acquire, directly or indirectly, any voting shares of, interest in, or all or substantially all of the assets of any additional bank located outside the State in which the operations of such bank holding company's banking subsidiaries were principally conducted on July 1, 1966, or the date on which such company became a bank holding company, whichever is later, unless the acquisition of such shares or assets of a State bank by an out-of-State bank holding company is specifically authorized by the statute laws of the State in which such bank is located, by language to that effect and not merely by implication. For the purposes of this section, the State in which the operations of a bank holding company's subsidiaries are principally conducted is that State in which total deposits of all such banking subsidiaries are largest.

[1] So in original. Probably should read "of".

(e) Insured bank

Every bank that is a holding company and every bank that is a subsidiary of such a company shall become and remain an insured bank as such term is defined in section 1813(h) of this title.

(May 9, 1956, ch. 240, § 3, 70 Stat. 134; July 1, 1966, Pub. L. 89-485, § 7, 80 Stat. 237; Dec. 31, 1970, Pub. L. 91-607, title I, § 102, 84 Stat. 1763.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-607, § 102(1), inserted provision deeming acquisition of bank shares after Dec. 31, 1970, as not being in good faith in a fiduciary capacity if acquiring bank or company has sole discretionary authority to exercise voting rights with respect thereto, and provision for subsequent approval of retention of acquired shares upon application filed within 90 days of acquisition and disposition of shares or sole discretionary voting rights within two years after order in an event of disapproval.

Subsec. (b). Pub. L. 91-607, § 102(2), inserted provision deeming an application for approval as granted where Board has not acted on application within 91 day period beginning on date of submission to Board of complete record on application.

Subsec. (e). Pub. L. 91-607, § 102(3), added subsec. (e).

1966—Subsec. (a). Pub. L. 89-485, § 7(a), (b), expanded the list of acts requiring prior approval of the Board by including therein any action that causes a bank to become a subsidiary of a bank holding company and substituted provisions excepting shares that are held under a trust that constitutes a company as defined in section 1841(b) of this title and excepting shares as provided in pars. (2) and (3) of section 1841(g) of this title from the effect of the clause lifting the requirements of prior Board approved in the case of shares acquired by a bank in good faith in a fiduciary capacity for provisions excepting shares held for the benefit of the shareholders of a bank from the effect of the clause.

Subsec. (c). Pub. L. 89-485, § 7(c), inserted provision prohibiting any acquisition, merger, or consolidation that would result in a monopoly or would further any combination or conspiracy to monopolize the banking business in any part of the United States or would substantially lessen competition or in any manner be in restraint of trade unless the public interest clearly outweighed the anticompetitive effects and substituted provisions requiring the Board to take into consideration the financial and managerial resources and future prospects of the company or bank concerned and the convenience and needs of the community to be served for provisions requiring the Board to take into consideration the financial history of the company or bank concerned, its prospects, the character of its management, the needs of the community, and the public interest.

Subsec. (d). Pub. L. 89-485, § 7(d), substituted provisions restricting expansion to state in which the operations of the bank holding company's banking subsidiaries were principally conducted, defined, as that state in which total deposits of all such banking subsidiaries were largest, on July 1, 1966, or the date on which the company became a bank holding company, whichever is later, for provisions restricting expansion to state in which the holding company maintains its principal office and place of business or in which it conducts its principal operations.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1849, 1850 of this title; title 15 section 18a.

§ 1843. Interests in nonbanking organizations

(a) Ownership or control of voting shares of any company not a bank; engagement in activities other than banking

Except as otherwise provided in this chapter, no bank holding company shall—

(1) after May 9, 1956, acquire direct or indirect ownership or control of any voting shares of any company which is not a bank, or

(2) after two years from the date as of which it becomes a bank holding company, or in the case of a company which has been continuously affiliated since May 15, 1955, with a company which was registered under the Investment Company Act of 1940 [15 U.S.C. 80a-1 et seq.], prior to May 15, 1955, in such a manner as to constitute an affiliated company within the meaning of that Act, after December 31, 1978, or, in the case of any company which becomes, as a result of the enactment of the Bank Holding Company Act Amendments of 1970, a bank holding company on December 31, 1970, after December 31, 1980, retain direct or indirect ownership or control of any voting shares of any company which is not a bank or bank holding company or engage in any activities other than (A) those of banking or of managing or controlling banks and other subsidiaries authorized under this chapter or of furnishing services to or performing services for its subsidiaries, and (B) those permitted under paragraph (8) of subsection (c) of this section subject to all the conditions specified in such paragraph or in any order or regulation issued by the Board under such paragraph: *Provided*, That a company covered in 1970 may also engage in those activities in which directly or through a subsidiary (i) it was lawfully engaged on June 30, 1968 (or on a date subsequent to June 30, 1968 in the case of activities carried on as the result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and (ii) it has been continuously engaged since June 30, 1968 (or such subsequent date). The Board by order, after opportunity for hearing, may terminate the authority conferred by the preceding proviso on any company to engage directly or through a subsidiary in any activity otherwise permitted by that proviso if it determines, having due regard to the purposes of this chapter, that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices; and in the case of any such company controlling a bank having bank assets in excess of $60,000,000 on or after December 31, 1970, the Board shall determine, within two years after such date (or, if later, within two years after the date on which the bank assets first exceed $60,000,000), whether the authority conferred by the preceding proviso with respect to such company should be terminated as provided in this sentence. Nothing in this paragraph shall be construed to authorize any bank holding company referred to in the preceding proviso, or any subsidiary thereof, to engage in activities authorized by that pro-

viso through the acquisition, pursuant to a contract entered into after June 30, 1968, of any interest in or the assets of a going concern engaged in such activities. Any company which is authorized to engage in any activity pursuant to the preceding proviso or subsection (d) of this section but, as a result of action of the Board, is required to terminate such activity may (notwithstanding any otherwise applicable time limit prescribed in this paragraph) retain the ownership or control of shares in any company carrying on such activity for a period of ten years from the date on which its authority was so terminated by the Board.

The Board is authorized, upon application by a bank holding company, to extend the two year period referred to in paragraph (2) above from time to time as to such bank holding company for not more than one year at a time, if, in its judgment, such an extension would not be detrimental to the public interest, but no such extensions shall in the aggregate exceed three years.

(b) Statement purporting to represent shares of any company except a bank or bank holding company

After two years from May 9, 1956, no certificate evidencing shares of any bank holding company shall bear any statement purporting to represent shares of any other company except a bank or a bank holding company, nor shall the ownership, sale, or transfer of shares of any bank holding company be conditioned in any manner whatsoever upon the ownership, sale, or transfer of shares of any other company except a bank or a bank holding company.

(c) Exemptions

The prohibitions in this section shall not apply to any bank holding company which is (i) a labor, agricultural, or horticultural organization and which is exempt from taxation under section 501 of title 26, or (ii) a company covered in 1970 more than 85 per centum of the voting stock of which was collectively owned on June 30, 1968, and continuously thereafter, directly or indirectly, by or for members of the same family, or their spouses, who are lineal descendants of common ancestors; and such prohibitions shall not, with respect to any other bank holding company, apply to—

(1) shares of any company engaged or to be engaged solely in one or more of the following activities: (A) holding or operating properties used wholly or substantially by any banking subsidiary of such bank holding company in the operations of such banking subsidiary or acquired for such future use; or (B) conducting a safe deposit business; or (C) furnishing services to or performing services for such bank holding company or its banking subsidiaries; or (D) liquidating assets acquired from such bank holding company or its banking subsidiaries or acquired from any other source prior to May 9, 1956, or the date on which such company became a bank holding company, whichever is later;

(2) shares acquired by a bank in satisfaction of a debt previously contracted in good faith, but such bank shall dispose of such shares within a period of two years from the date on which they were acquired, except that the Board is authorized upon application by such bank holding company to extend such period of two years from time to time as to such holding company for not more than one year at a time if, in its judgment, such an extension would not be detrimental to the public interest, but no such extensions shall extend beyond a date five years after the date on which such shares were acquired;

(3) shares acquired by such bank holding company from any of its subsidiaries which subsidiary has been requested to dispose of such shares by any Federal or State authority having statutory power to examine such subsidiary, but such bank holding company shall dispose of such shares within a period of two years from the date on which they were acquired;

(4) shares held or acquired by a bank in good faith in a fiduciary capacity, except where such shares are held under a trust that constitutes a company as defined in section 1841(b) of this title and except as provided in paragraphs (2) and (3) of section 1841(g) of this title;

(5) shares which are of the kinds and amounts eligible for investment by national banking associations under the provisions of section 24 of this title;

(6) shares of any company which do not include more than 5 per centum of the outstanding voting shares of such company;

(7) shares of an investment company which is not a bank holding company and which is not engaged in any business other than investing in securities, which securities do not include more than 5 per centum of the outstanding voting shares of any company;

(8) shares of any company the activities of which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. In determining whether a particular activity is a proper incident to banking or managing or controlling banks the Board shall consider whether its performance by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. In orders and regulations under this subsection, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern;

(9) shares held or activities conducted by any company organized under the laws of a foreign country the greater part of whose business is conducted outside the United States, if the Board by regulation or order determines that, under the circumstances and subject to the conditions set forth in the regulation or order, the exemption would not be substantially at variance with the purposes of this chapter and would be in the public interest;

(10) shares lawfully acquired and owned prior to May 9, 1956, by a bank which is a bank holding company, or by any of its wholly owned subsidiaries;

(11) shares owned directly or indirectly by a company covered in 1970 in a company which does not engage in any activities other than those in which the bank holding company, or its subsidiaries, may engage by virtue of this section, but nothing in this paragraph authorizes any bank holding company, or subsidiary thereof, to acquire any interest in or the assets of any going concern (except pursuant to a binding written contract entered into before June 30, 1968, or pursuant to another provision of this chapter) other than one which was a subsidiary on June 30, 1968;

(12) shares retained or acquired, or activities engaged in, by any company which becomes, as a result of the enactment of the Bank Holding Company Act Amendments of 1970, a bank holding company on December 31, 1970, or by any subsidiary thereof, if such company—

(A) within the applicable time limits prescribed in subsection (a)(2) of this section (i) ceases to be a bank holding company, or (ii) ceases to retain direct or indirect ownership or control of those shares and to engage in those activities not authorized under this section; and

(B) complies with such other conditions as the Board may by regulation or order prescribe; or

(13) shares of, or activities conducted by, any company which does no business in the United States except as an incident to its international or foreign business, if the Board by regulation or order determines that, under the circumstances and subject to the conditions set forth in the regulation or order, the exemption would not be substantially at variance with the purposes of this chapter and would be in the public interest.

In the event of the failure of the Board to act on any application for an order under paragraph (8) of this subsection within the ninety-one-day period which begins on the date of submission to the Board of the complete record on that application, the application shall be deemed to have been granted. The Board shall include in its annual report to the Congress a description and a statement of the reasons for approval of each activity approved by it by order or regulation under such paragraph during the period covered by the report.

(d) Exemption of company controlling one bank prior to July 1, 1968

To the extent that such action would not be substantially at variance with the purposes of this chapter and subject to such conditions as it considers necessary to protect the public interest, the Board by order, after opportunity for hearing, may grant exemptions from the provisions of this section to any bank holding company which controlled one bank prior to July 1, 1968, and has not thereafter acquired the control of any other bank in order (1) to avoid disrupting business relationships that have existed over a long period of years without adversely affecting the banks or communities involved, or (2) to avoid forced sales of small locally owned banks to purchasers not similarly representative of community interests, or (3) to allow retention of banks that are so small in relation to the holding company's total interests and so small in relation to the banking market to be served as to minimize the likelihood that the bank's powers to grant or deny credit may be influenced by a desire to further the holding company's other interests.

(e) Divestiture of nonexempt shares

With respect to shares which were not subject to the prohibitions of this section as originally enacted by reason of any exemption with respect thereto but which were made subject to such prohibitions by the subsequent repeal of such exemption, no bank holding company shall retain direct or indirect ownership or control of such shares after five years from the date of the repeal of such exemption, except as provided in paragraph (2) of subsection (a) of this section. Any bank holding company subject to such five-year limitation on the retention of nonbanking assets shall endeavor to divest itself of such shares promptly and such bank holding company shall report its progress in such divestiture to the Board two years after repeal of the exemption applicable to it and annually thereafter.

(May 9, 1956, ch. 240, § 4, 70 Stat. 135; July 1, 1966, Pub. L. 89-485, § 8, 80 Stat. 238; Dec. 31, 1970, Pub. L. 91-607, title I, § 103, 84 Stat. 1763.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (a)(2), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, which is classified generally to subchapter I (§ 80a-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of that Act to the Code, see section 80a-51 of Title 15 and Tables volume.

"Enactment of the Bank Holding Company Act Amendments of 1970", referred to in subsecs. (a)(2) and (c)(12), means enactment of Pub. L. 91-607 on Dec. 31, 1970. For classification of Pub. L. 91-607, see Short Title note under section 1841 of this title.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-607, § 103(1), (2), in par. (2) of first sentence, inserted provision respecting prohibition in the case of a company which becomes, as a result of the enactment of the Bank Holding Company Act Amendments of 1970, a bank holding company on the date of such enactment, after Dec. 31, 1980, substituted "engage in any activities" for "engage in any business", designated existing provisions as cl. (A), substituting therein "and other subsidiaries" authorized under this chapter or of furnishing services to or performing services for its subsidiaries" for "or of furnishing services to or performing services for any bank of which it owns or controls 25 per centum or more of the voting shares", added cl. (B) and provisions respecting activities of a company covered in 1970, and termination of authority for engaging in the activities, authorization of bank holding company to engage in activities through acquisition of interest in or assets of a going concern engaged in the activities, and retention for period of ten years ownership or control of shares in a company carrying on the activity, where the activity of the company has been terminated; and, in second sentence substituted "two year period" for "period", respectively.

Subsec. (c). Pub. L. 91-607, § 103(3), (6), designated existing provisions of text preceding par. (1) as cl. (i) and added cl. (2), and added concluding text following par. (13) deeming an application under par. (8) as

granted upon failure of Board to act within prescribed period and requiring the Board in the report to Congress to include a description and a statement of reasons for approval of each activity under par. (8), respectively.

Subsec. (c)(8). Pub. L. 91-607, § 103(4), inserted provisions respecting criteria to be used for determining whether particular activity is proper incident to banking and provision for differentiation by orders and regulations between de novo activities and going concern activities, deleted description of company activities as being of a financial, fiduciary, or insurance nature, specific language respecting determination on basis of record made at the hearing, and provision respecting the close relationship of the activities making it unnecessary for prohibitions of this section to apply in order to carry out the purposes of this chapter, substituted "opportunity for hearing" for "hearing", and provided for determination by regulation.

Subsec. (c)(9). Pub. L. 91-607, § 103(5), extended exemption to company activities, substituted provision respecting conduct of greater part of company's business; outside the United States for prior provision respecting engaging principally in the banking business outside the United States, and conditioned exemption on Board determination by regulation or order that the exemption would not be substantially at variance with the purposes of this chapter and would be in the public interest.

Subsecs. (c)(11) to (13). Pub. L. 91-607, § 103(6), added pars. (11) to (13).

Subsec. (d). Pub. L. 91-607, § 103(7), added subsec. (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 91-607, § 103(7), redesignated former subsec. (d) as (e).

1966—Subsec. (a). Pub. L. 89-485, § 8(a), extended until December 31, 1978, the deadline for divestiture by bank holding companies of their nonbanking interests in the case of any company that has been continuously affiliated since May 15, 1955, with a company which was registered under the Investment Company Act of 1940, prior to May 15, 1955, in such a manner as to constitute an affiliated company within the meaning of that Act.

Subsec. (c). Pub. L. 89-485, § 8(b), limited the exception granted companies engaged in liquidating assets acquired by the bank holding company by requiring that, to qualify for the exception, the company be engaged solely in liquidating assets acquired from the holding company and its banks or from another source before it became subject to this chapter and not merely engaged in the general liquidating business with only a part of its operations performed for the holding company system, authorized the grant of one year extensions up to a total of three years to the two year period allowed for the disposal of shares acquired by a bank in satisfaction of a debt previously contracted in good faith, substituted reference, in subsec. (c)(4), to shares held under a trust that constitutes a company as defined in section 1841(b) and except as provided in pars. (2) and (3) of section 1841(g) of this title for reference to shares held for the benefit of the shareholders of a bank holding company or any of its subsidiaries, and eliminated the requirement that, in order to qualify for the exemption allowing a bank holding company to hold shares in a nonbanking company, the shares do not exceed 5 per centum of the holding company's assets in value.

Subsec. (d). Pub. L. 89-485, § 8(c), added subsec. (d).

COMPANIES NOT DOING BUSINESS WITHIN THE UNITED STATES

Prohibitions of section not to apply to shares of any company organized under the laws of a foreign country that does not do any business within the United States if the shares are held or acquired by a bank holding company that is principally engaged in the banking business outside the United States, see section 1841 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 371c, 1841, 1850 of this title; title 15 section 18a; title 26 sections 1101, 1102, 1103, 6158.

§ 1844. Administration

(a) Registration of bank holding company

Within one hundred and eighty days after May 9, 1956, or within one hundred and eighty days after becoming a bank holding company, whichever is later, each bank holding company shall register with the Board on forms prescribed by the Board, which shall include such information with respect to the financial condition and operations, management, and intercompany relationships of the bank holding company and its subsidiaries, and related matters, as the Board may deem necessary or appropriate to carry out the purposes of this chapter. The Board may, in its discretion, extend the time within which a bank holding company shall register and file the requisite information.

(b) Regulations and orders

The Board is authorized to issue such regulations and orders as may be necessary to enable it to administer and carry out the purposes of this chapter and prevent evasions thereof.

(c) Reports required by Board; examinations; cost of examination

The Board from time to time may require reports under oath to keep it informed as to whether the provisions of this chapter and such regulations and orders issued thereunder have been complied with; and the Board may make examinations of each bank holding company and each subsidiary thereof, the cost of which shall be assessed against, and paid by, such holding company. The Board shall, as far as possible, use the report of examinations made by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the appropriate State bank supervisory authority for the purposes of this section.

(d) Reports to the Congress; recommendations

Before the expiration of two years following May 9, 1956, and each year thereafter in the Board's annual report to the Congress, the Board shall report to the Congress the results of the administration of this chapter, stating what, if any, substantial difficulties have been encountered in carrying out the purposes of this chapter, and any recommendations as to changes in the law which in the opinion of the Board would be desirable.

(May 9, 1956, ch. 240, § 5, 70 Stat. 137.)

§ 1845. Repealed. Pub. L. 89-485, § 9, July 1, 1966, 80 Stat. 240

Section, act May 9, 1956, ch. 240, § 6, 70 Stat. 137, prohibited any subsidiary bank from lending to or investing in its parent holding company or a fellow subsidiary bank. See section 371c of this title.

§ 1846. Reservation of rights to States

The enactment by the Congress of this chapter shall not be construed as preventing any State from exercising such powers and jurisdiction which it now has or may hereafter have

with respect to banks, bank holding companies, and subsidiaries thereof.

(May 9, 1956, ch. 240, § 7, 70 Stat. 138.)

§ 1847. Penalties

Any company which willfully violates any provision of this chapter, or any regulation or order issued by the Board pursuant thereto, shall upon conviction be fined not more than $1,000 for each day during which the violation continues. Any individual who willfully participates in a violation of any provision of this chapter shall upon conviction be fined not more than $10,000 or imprisoned not more than one year, or both. Every officer, director, agent, and employee of a bank holding company shall be subject to the same penalties for false entries in any book, report, or statement of such bank holding company as are applicable to officers, directors, agents, and employees of member banks for false entries in any books, reports, or statements of member banks under section 1005 of title 18.

(May 9, 1956, ch. 240, § 8, 70 Stat. 138.)

§ 1848. Judicial review

Any party aggrieved by an order of the Board under this chapter may obtain a review of such order in the United States Court of Appeals within any circuit wherein such party has its principal place of business or in the Court of Appeals in the District of Columbia, by filing in the court, within thirty days after the entry of the Board's order, a petition praying that the order of the Board be set aside. A copy of such petition shall be forthwith transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28. Upon the filing of such petition the court shall have the jurisdiction to affirm, set aside, or modify the order of the Board and to require the Board to take such action with regard to the matter under review as the court deems proper. The findings of the Board as to the facts, if supported by substantial evidence, shall be conclusive.

(May 9, 1956, ch. 240, § 9, 70 Stat. 138; Aug. 28, 1958, Pub. L. 85-791, § 34, 72 Stat. 951; July 1, 1966, Pub. L. 89-485, § 10, 80 Stat. 240.)

AMENDMENTS

1966—Pub. L. 89-485 reduced from 60 to 30 days the period allowed for the filing of a petition to obtain judicial review of a Board order.

1958—Pub. L. 85-791 substituted, in second sentence, "transmitted to the Board by the clerk of the court, and thereupon the Board shall file in the court the record made before the Board, as provided in section 2112 of title 28" for "served upon the Board, and thereupon the Board shall certify and file in the court a transcript of the record made before the Board", and substituting, in third sentence, "such petition" for "the transcript".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1850 of this title.

§ 1849. Saving provision

(a) General rule

Nothing herein contained shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any prohibited antitrust or monopolistic act, action, or conduct, except as specifically provided in this section.

(b) Antitrust proceedings; stay of approval by Board; review de novo; judicial standards; limitations; exemptions

The Board shall immediately notify the Attorney General of any approval by it pursuant to section 1842 of this title of a proposed acquisition, merger, or consolidation transaction, and such transaction may not be consummated before the thirtieth calendar day after the date of approval by the Board. Any action brought under the antitrust laws arising out of an acquisition, merger, or consolidation transaction approved under section 1842 of this title shall be commenced within such thirty-day period. The commencement of such an action shall stay the effectiveness of the Board's approval unless the court shall otherwise specifically order. In any such action, the court shall review de novo the issues presented. In any judicial proceeding attacking any acquisition, merger, or consolidation transaction approved pursuant to section 1842 of this title on the ground that such transaction alone and of itself constituted a violation of any antitrust laws other than section 2 of title 15, the standards applied by the court shall be identical with those that the Board is directed to apply under section 1842 of this title. Upon the consummation of an acquisition, merger, or consolidation transaction approved under section 1842 of this title in compliance with this chapter and after the termination of any antitrust litigation commenced within the period prescribed in this section, or upon the termination of such period if no such litigation is commenced therein, the transaction may not thereafter be attacked in any judicial proceeding on the ground that it alone and of itself constituted a violation of any antitrust laws other than section 2 of title 15, but nothing in this chapter shall exempt any bank holding company involved in such a transaction from complying with the antitrust laws after the consummation of such transaction.

(c) Antitrust proceedings; Board and State banking agency as party; representation by counsel

In any action brought under the antitrust laws arising out of any acquisition, merger, or consolidation transaction approved by the Board under section 1842 of this title, the Board and any State banking supervisory agency having jurisdiction within the State involved, may appear as a party of its own motion and as of right, and be represented by its counsel.

(d) Treatment of merger transactions consummated prior or subsequent to May 9, 1956, and not in litigation prior to July 1, 1966

Any acquisition, merger, or consolidation of the kind described in section 1842(a) of this

title which was consummated at any time prior or subsequent to May 9, 1956, and as to which no litigation was initiated by the Attorney General prior to July 1, 1966, shall be conclusively presumed not to have been in violation of any antitrust laws other than section 2 of title 15.

(e) Antitrust litigation; substantive law applicable to proceedings pending on or after July 1, 1966 with respect to merger transactions

Any court having pending before it on or after July 1, 1966, any litigation initiated under the antitrust laws by the Attorney General with respect to any acquisition, merger, or consolidation of the kind described in section 1842(a) of this title shall apply the substantive rule of law set forth in section 1842 of this title.

(f) Definition of "antitrust laws"

For the purposes of this section, the term "antitrust laws" means the Act of July 2, 1890 (the Sherman Antitrust Act), the Act of October 15, 1914 (the Clayton Act), and any other Acts in pari materia.

(May 9, 1956, ch. 240, § 11, 70 Stat. 146; July 1, 1966, Pub. L. 89-485, § 11, 80 Stat. 240; Dec. 31, 1970, Pub. L. 91-607, title I, § 104, 84 Stat. 1766.)

REFERENCES IN TEXT

The "Act of July 2, 1890 (the Sherman Antitrust Act)", referred to in subsec. (f), is classified to sections 1 to 7 of Title 15, Commerce and Trade. See Short Title note set out under section 1 of Title 15.

The "Act of October 15, 1914 (the Clayton Act)", also referred to in subsec. (f), is classified to sections 12, 13, 14 to 19, 20, 21, 22 to 27, and 44 of Title 15 and to sections 52 and 53 of Title 29, Labor. See References in Text note set out under section 12 of Title 15.

AMENDMENTS

1970—Subsec. (b). Pub. L. 91-607, § 104(a), substituted "section 1842 of this title" for "this chapter" where appearing first two times, and inserted "approved under section 1842 of this title" in second sentence preceding "shall be commended" and in last sentence preceding "in compliance with this chapter".

Subsec. (c). Pub. L. 91-607, § 104(b), substituted "under section 1842 of this title" for "pursuant to this chapter".

1966—Pub. L. 89-485 designated existing provisions as subsec. (a), and in subsec. (a) as so designated, added "except as specifically provided in this section", and added subsecs. (b) to (f).

§ 1850. Acquisition of subsidiary, nonbanking activity or business, and tying arrangement: Federal Reserve Board proceedings; application for authorization; competitor as party in interest and person aggrieved; judicial review

With respect to any proceeding before the Federal Reserve Board wherein an applicant seeks authority to acquire a subsidiary which is a bank under section 1842 of his title, to engage directly or indirectly in a nonbanking activity pursuant to section 1843 of this title, or to engage in an activity otherwise prohibited under chapter 22 of this title, a party who would become a competitor of the applicant or subsidiary thereof by virtue of the applicant's or its subsidiary's acquisition, entry into the business involved, or activity, shall have the right to be a party in interest in the proceeding and, in the event of an adverse order of the Board, shall have the right as an aggrieved party to obtain judicial review thereof as provided in section 1848 of this title or as otherwise provided by law.

(Pub. L. 91-607, title I, § 105, Dec. 31, 1970, 84 Stat. 1766.)

CODIFICATION

Section was enacted as part of the Bank Holding Company Act Amendments of 1970, and not as part of the Bank Holding Company Act of 1956 which comprises this chapter.

CHAPTER 18—BANK SERVICE CORPORATIONS

Sec.
1861. Definitions.
1862. Amount of bank investment in service corporations.
1863. Services to non-stockholding banks.
1864. Bank services as only permissible activity.
1865. Regulation and examination of services.

§ 1861. Definitions

For the purposes of this chapter—

(a) The term "Federal supervisory agency" means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Board of Directors of the Federal Deposit Insurance Corporation.

(b) The term "bank services" means services such as check and deposit sorting and posting, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a bank.

(c) The term "bank service corporation" means a corporation organized to perform bank services for two or more banks, each of which owns part of the capital stock of such corporation, and at least one of which is subject to examination by a Federal supervisory agency.

(d) The term "invest" includes any advance of funds to a bank service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment.

(Pub. L. 87-856, § 1, Oct. 23, 1962, 76 Stat. 1132.)

§ 1862. Amount of bank investment in service corporations

(a) No limitation or prohibition otherwise imposed by any provision of Federal law exclusively relating to banks shall prevent any two or more banks from investing not more than 10 per centum of the paid-in and unimpaired capital and unimpaired surplus of each of them in a bank service corporation.

(b) If stock in a bank service corporation has been held by two banks, and one of such banks ceases to utilize the services of the corporation and ceases to hold stock in it, and leaves the other as the sole stockholding bank, the corporation may nevertheless continue to function as such and the other bank may continue to hold stock in it.

(Pub. L. 87-856, § 2, Oct. 23, 1962, 76 Stat. 1132.)

§ 1863. Services to non-stockholding banks

Whenever a bank (referred to in this section as an "applying bank") subject to examination

by a Federal supervisory agency applies for a type of bank services for itself from a bank service corporation which supplies the same type of bank services to another bank, and the applying bank is competitive with any bank (referred to in this section as a "stockholding bank") which holds stock in such corporation, the corporation must offer to supply such services by either—

(1) issuing stock to the applying bank and furnishing bank services to it on the same basis as to the other banks holding stock in the corporation, or

(2) furnishing bank services to the applying bank at rates no higher than necessary to fairly reflect the cost of such services, including the reasonable cost of the capital provided to the corporation by its stockholders,

at the corporation's option, unless comparable services at competitive overall cost are available to the applying bank from another source, or unless the furnishing of the services sought by the applying bank would be beyond the practical capacity of the corporation. In any action or proceeding to enforce the duty imposed by this section, or for damages for the breach thereof, the burden shall be upon the bank service corporation to show such availability.

(Pub. L. 87-856, § 3, Oct. 23, 1962, 76 Stat. 1132.)

§ 1864. Bank services as only permissible activity

No bank service corporation may engage in any activity other than the performance of bank services for banks.

(Pub. L. 87-856, § 4, Oct. 23, 1962, 76 Stat. 1132.)

§ 1865. Regulation and examination of services

(a) No bank subject to examination by a Federal supervisory agency may cause to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises, unless assurances satisfactory to the agency prescribed in subsection (b) of this section are furnished to such agency by both the bank and the party performing such services that the performance thereof will be subject to regulation and examination by such agency to the same extent as if such services were being performed by the bank itself on its own premises.

(b) The assurances required by subsection (a) of this section shall be given, in the case of—

(1) a national banking association or a bank operating under the code of laws for the District of Columbia, to the Comptroller of the Currency;

(2) a bank (other than a bank described in paragraph (1)) which is a member of the Federal Reserve System, to the Board of Governors of the Federal Reserve System; and

(3) a bank (other than a bank described in paragraph (1) or (2)) whose deposits are insured by the Federal Deposit Insurance Corporation, to the Board of Directors of the Federal Deposit Insurance Corporation.

(Pub. L. 87-856, § 5, Oct. 23, 1962, 76 Stat. 1133.)

CHAPTER 19—SECURITY MEASURES FOR BANKS AND SAVINGS AND LOAN ASSOCIATIONS

Sec.
1881. Federal supervisory agency defined.
1882. Security measures.
(a) Rules for installation, maintenance, and operation of security devices and procedures.
(b) Time for compliance with standards; periodic reports.
1883. Insurance rates; report to Congress.
1884. Penalties for violations.

§ 1881. Federal supervisory agency defined

As used in this chapter the term "Federal supervisory agency" means—

(1) The Comptroller of the Currency with respect to national banks and district banks,

(2) The Board of Governors of the Federal Reserve System with respect to Federal Reserve banks and State banks which are members of the Federal Reserve System,

(3) The Federal Deposit Insurance Corporation with respect to State banks which are not members of the Federal Reserve System but the deposits of which are insured by the Federal Deposit Insurance Corporation, and

(4) The Federal Home Loan Bank Board with respect to Federal savings and loan associations, and institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation.

(Pub. L. 90-389, § 2, July 7, 1968, 82 Stat. 294.)

Short Title

Section 1 of Pub. L. 90-389 provided: "That this Act [which enacted this chapter and amended section 1729(c) of this title] may be cited as the 'Bank Protection Act of 1968'."

Section Referred to in Other Sections

This section is referred to in section 1883 of this title.

§ 1882. Security measures

(a) Rules for installation, maintenance, and operation of security devices and procedures

Within six months from July 7, 1968, each Federal supervisory agency shall promulgate rules establishing minimum standards with which each bank or savings and loan association must comply with respect to the installation, maintenance, and operation of security devices and procedures, reasonable in cost, to discourage robberies, burglaries, and larcenies and to assist in the identification and apprehension of persons who commit such acts.

(b) Time for compliance with standards; periodic reports

The rules shall establish the time limits within which banks and savings and loan associations shall comply with the standards and shall require the submission of periodic reports with respect to the installation, maintenance, and operation of security devices and procedures.

(Pub. L. 90-389, § 3, July 7, 1968, 82 Stat. 295.)

§ 1883. Insurance rates; report to Congress

The Federal supervisory agencies shall consult with

(1) insurers furnishing insurance protection against losses resulting from robberies, burglaries, and larcenies committed against financial institutions referred to in section 1881 of this title, and

(2) State agencies having supervisory or regulatory responsibilities with respect to such insurers

to determine the feasibility and desirability of premium rate differentials based on the installation, maintenance, and operation of security devices and procedures. The Federal supervisory agencies shall report to the Congress the results of their consultations pursuant to this section not later than two years after July 7, 1968.

(Pub. L. 90-389, § 4, July 7, 1968, 82 Stat. 295.)

§ 1884. Penalties for violations

A bank or savings and loan association which violates a rule promulgated pursuant to this chapter shall be subject to a civil penalty which shall not exceed $100 for each day of the violation.

(Pub. L. 90-389, § 5, July 7, 1968, 82 Stat. 295.)

CHAPTER 20—CREDIT CONTROL

Sec.
1901. Definitions.
1902. Rules and regulations by the Board of Governors of the Federal Reserve System.
1903. Interest.
1904. Credit controls.
1905. Extent of control.
1906. Reports; production of records.
1907. Injunctions for compliance.
1908. Civil penalties.
1909. Criminal penalty.

§ 1901. Definitions

(a) The definitions and rules of construction set forth in this section apply to the provisions of this chapter.

(b) The term "Board" refers to the Board of Governors of the Federal Reserve System.

(c) The term "organization" means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(d) The term "person" means a natural person or an organization.

(e) The term "credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(f) The term "creditor" refers to any person who extends, or arranges for the extension of, credit, whether in connection with a loan, a sale of property or services, or otherwise.

(g) The term "credit sale" refers to any sale with respect to which credit is extended or arranged by the seller. The term includes any rental-purchase contract and any contract or arrangement for the bailing or leasing of property when used as a financing device.

(h) The terms "extension of credit" and "credit transaction" include loans, credit sales, the supplying of funds through the underwriting, distribution, or acquisition of securities, the making or assisting in the making of a direct placement, or otherwise participating in the offering, distribution, or acquisition of securities.

(i) The term "borrower" includes any person to whom credit is extended.

(j) The term "loan" includes any type of credit, including credit extended in connection with a credit sale.

(k) The term "State" refers to any State, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States.

(*l*) Any reference to any requirement imposed under this chapter of any provision thereof includes reference to the regulations of the Board under this chapter or the provision thereof in question.

(Pub. L. 91-151, title II, § 202, Dec. 23, 1969, 83 Stat. 376.)

SHORT TITLE

Section 201 of Pub. L. 91-151 provided that: "This title [enacting this chapter] may be cited as the 'Credit Control Act'."

§ 1902. Rules and regulations by the Board of Governors of the Federal Reserve System

The Board shall prescribe regulations to carry out the purposes of this chapter. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgement of the Board are necessary or proper to effectuate the purposes of this chapter, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(Pub. L. 91-151, title II, § 203, Dec. 23, 1969, 83 Stat. 376.)

§ 1903. Interest

Except as otherwise provided by the Board, the amount of the interest charge in connection with any credit transaction shall be determined under the regulations of the Board as the sum of all charges payable directly or indirectly to the person by whom the credit is extended in consideration of the extension of credit.

(Pub. L. 91-151, title II, § 204, Dec. 23, 1969, 83 Stat. 377.)

§ 1904. Credit controls

(a) Whenever the President determines that such action is necessary or appropriate for the purpose of preventing or controlling inflation generated by the extension of credit in an excessive volume, the President may authorize the Board to regulate and control any or all extensions of credit.

(b) The Board may, in administering this Act, utilize the services of the Federal Reserve banks, and any other agencies, Federal or State, which are available and appropriate.

(Pub. L. 91-151, title II, § 205, Dec. 23, 1969, 83 Stat. 377.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b), is Pub. L. 91-151, Dec. 23, 1969, 83 Stat. 377, which is classified generally to this chapter. For complete classification of this Act to the Code, see Tables volume.

COUNCIL ON WAGE AND PRICE STABILITY

Pub. L. 93-387, Aug. 24, 1974, 88 Stat. 750, as amended by Pub. L. 93-449, § 4(e), Oct. 18, 1974, 88 Stat. 1367; Pub. L. 94-78, §§ 2(a), 3-7, Aug. 9, 1975, 89 Stat. 411, 412, provided:

"[Section 1.] That this Act may be cited as the 'Council on Wage and Price Stability Act'.

"SEC. 2. (a) The President is authorized to establish, within the Executive Office of the President, a Council on Wage and Price Stability (hereinafter referred to as the 'Council').

"(b) The Council shall consist of eight members appointed by the President and four adviser-members also appointed by the President. The Chairman of the Council shall be designated by the President.

"(c) There shall be a Director of the Council who shall be appointed by the President by and with the advice and consent of the Senate. The Director shall be compensated at the rate prescribed for level IV of the Executive Schedule by section 5315 of title 5, United States Code. The Director of the Council shall perform such functions as the President or the Chairman of the Council may prescribe. The Deputy Director shall perform such functions as the Chairman or the Director of the Council may prescribe.

"(d) The Director of the Council may employ and fix the compensation of such officers and employees, including attorneys, as are necessary to perform the functions of the Council at rates not to exceed the highest rate for grade 15 of the General Schedule under section 5332 of title 5, United States Code. Except that the Director, with the approval of the Chairman may, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service, appoint and fix the compensation of not to exceed five positions at the rates provided for grades 16, 17, and 18 of such General Schedule, to carry out the functions of the Council.

"(e) The Director of the Council may employ experts, expert witnesses, and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and compensate them at rates not in excess of the maximum daily rate prescribed for grade 18 of the General Schedule under section 5332 of title 5, United States Code.

"(f) The Director of the Council may, with their consent, utilize the services, personnel, equipment, and facilities of Federal, State, regional, and local public agencies and instrumentalities, with or without reimbursement therefor, and may transfer funds made available pursuant to this Act to Federal, State, regional, and local public agencies and instrumentalities as reimbursement for utilization of such services, personnel, equipment, and facilities.

"(g) The Council shall have the authority, for any purpose related to this Act, to—

"(1) require periodic reports for the submission of information maintained in the ordinary course of business; and

"(2) issue subpenas signed by the Chairman or the Director for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, only to entities whose annual gross revenues are in excess of $5,000,000;

relating to wages, costs, productivity, prices, sales, profits, imports, and exports by product line or by such other categories as the Council may prescribe. The Council shall have the authority to administer oaths to witnesses. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this section, the Council may request the Attorney General to seek the aid of the United States district court for any district in which such person is found, to compel that person, after notice, to appear and give testimony, or to appear and produce documents before the Council.

"SEC. 3. (a) The Council shall—

"(1) review and analyze industrial capacity, demand, supply, and the effect of economic concentration and anticompetitive practices, and supply in various sectors of the economy, working with the industrial groups concerned and appropriate governmental agencies to encourage price restraint;

"(2) work with labor and management in the various sectors of the economy having special exonomic problems, as well as with appropriate government agencies, to improve the structure of collective bargaining and the performance of those sectors in restraining prices;

"(3) improve wage and price data bases for the various sectors of the economy to improve collective bargaining and encourage price restraint;

"(4) conduct public hearings necessary to provide for public scrutiny of inflationary problems in various sectors of the economy;

"(5) focus attention on the need to increase productivity in both the public and private sectors of the economy;

"(6) monitor the economy as a whole by acquiring as appropriate, reports on wages, costs, productivity, prices, sales, profits, imports, and exports;

"(7) review and appraise the various programs, policies, and activities of the departments and agencies of the United States for the purpose of determining the extent to which those programs and activities are contributing to inflation; and

"(8) intervene and otherwise participate on its own behalf in rulemaking, ratemaking, licensing and other proceedings before any of the departments and agencies of the United States, in order to present its views as to the inflationary impact that might result from the possible outcomes of such proceedings.

"(b) Nothing in this Act, (1) authorizes the continuation, imposition, or reimposition of any mandatory economic controls with respect to prices, rents, wages, salaries, corporate dividends, or any similar transfers, or (2) affects the authority conferred by the Emergency Petroleum Allocation Act of 1973 [15 U.S.C. 751 et seq.].

"SEC. 4. (a) Any department or agency of the United States which collects, generates, or otherwise prepares or maintains data or information pertaining to the economy or any sector of the economy shall, upon the request of the Chairman of the Council, make that data or information available to the Council.

"(b) Disclosure of information obtained by the Council from sources other than Federal, State, or local government agencies and departments shall be in accordance with the provisions of section 552 of title 5, United States Code.

"(c) Disclosure by the Council of information obtained from a Federal, State, or local agency or department must be in accord with section 552 of title 5, United States Code, and all the applicable rules of practice and procedure of the agency or department from which the information was obtained.

"(d) Disclosure by a member or any employee of the Council of the confidential information as defined in section 1905 of title 18, United States Code, shall be a violation of the criminal code as stated therein.

"(e) Consistent with the provisions of section 7213 of the Internal Revenue Code of 1954 [26 U.S.C. 7213], nothing in this Act shall be construed as providing for or authorizing any Federal agency to divulge or to make known to the Council the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed solely in any income return, or to permit any income tax return filed pursuant to the provisions of the Internal Revenue Code of 1954 [26 U.S.C. 1 et seq.], thereof, to be seen or examined by the Council.

"(f)(1) Product line or other category information relating to an individual firm or person and obtained under section 2(g) shall be considered as confidential financial information under section 552 (b) (4) of title 5 of the United States Code and shall not be disclosed by the Council.

"(2) Periodic reports obtained by the Council under section 2(g) and copies thereof which are retained by the reporting firm or person shall be immune from legal process.

"SEC. 5. The Council shall report to the President, and through him to the Congress, on a quarterly basis and not later than thirty days after the close of each calendar quarter, concerning its activities, findings, and recommendations with respect to the containment of inflation and the maintenance of a vigorous and prosperous peacetime economy.

"SEC. 6. There is hereby authorized to be appropriated not to exceed $1,700,000 for each fiscal year ending prior to October 1, 1977, to carry out the purposes of this Act.

"SEC. 7. The authority granted by this Act terminates on September 30, 1977."

EFFECTIVE DATE OF 1975 AMENDMENT

Section 2(b) of Pub. L. 94-78, Aug. 9, 1975, 89 Stat. 411, provided that: "The amendment made by subsection (a) [amending section 2(c) of Pub. L. 93-387, the Council on Wage and Price Stability Act, set out above] shall take effect immediately after the individual holding the office of Director of the Council on Wage and Price Stability on the date of enactment of this Act [Aug. 9, 1975] ceases to hold that office."

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94-78, Aug. 9, 1975, 89 Stat. 411, provided that: "This Act [amending the Council on Wage and Price Stability provisions, sections 2(c), (g), 3(a)(6), (7), (8), 4(f), (1), (2), 6 and 7 of Pub. L. 93-387, set out as a note above] may be cited as the 'Council on Wage and Price Stability Act Amendments of 1975'."

PREFERENCES IN APPOINTMENT TO ADDITIONAL POSITIONS

Section 2(c) of Pub. L. 94-78, Aug. 9, 1975, 89 Stat. 411, provided that: "In appointment to the additional positions authorized by the amendment made by subsection (a) [amending section 2(c) of Pub. L. 93-387, the Council on Wage and Price Stability Act, set out as a note above], the Council shall give preference to economists and other persons with special ability and experience in one or more of the various sectors of the economy."

COST OF LIVING STABILIZATION

Title II of Pub. L. 91-379, Aug. 15, 1970, 84 Stat. 799, as amended by Pub. L. 91-558, title II, § 201, Dec. 17, 1970, 84 Stat. 1468; Pub. L. 92-8, § 2, Mar. 31, 1971, 85 Stat. 13; Pub. L. 92-15, § 3, May 18, 1971, 85 Stat. 38; Pub. L. 92-210, § 2, Dec. 22, 1971, 85 Stat. 743; Pub. L. 93-28, §§ 2-8, Apr. 30, 1973, 87 Stat. 27-29, provided that:

"§ 201. Short title

"This title may be cited as the 'Economic Stabilization Act of 1970'.

"§ 202. Findings

"It is hereby determined that in order to stabilize the economy, reduce inflation, minimize unemployment, improve the Nation's competitive position in world trade, and protect the purchasing power of the dollar, it is necessary to stabilize prices, rents, wages, salaries, dividends, and interest, and that in order to maintain and promote competition in the petroleum industry and assure sufficient supplies of petroleum products to meet the essential needs of various sections of the Nation, it is necessary to provide for the rational and equitable distribution of those products. The adjustments necessary to carry out this program require prompt judgments and actions by the executive branch of the Government. The President is in a position to implement promptly and effectively the program authorized by this title.

"§ 203. Presidential authority

"(a) The President is authorized to issue such orders and regulations as he deems appropriate, accompanied by a statement of reasons for such orders and regulations, to—

"(1) stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970, except that prices may be stabilized at levels below those prevailing on such date if it is necessary to eliminate windfall profits or if it is otherwise necessary to carry out the purposes of this title;

"(2) stabilize interest rates and corporate dividends and similar transfers at levels consistent with orderly economic growth; and

"(3) provide after public hearing, conducted with such notice, under such regulations and subject to such review as the exigencies of the case may, in his judgment, make appropriate for the establishment of priorities of use and for systematic allocation of supplies of petroleum products including crude oil in order to meet the essential needs of various sections of the Nation and to prevent anticompetitive effects resulting from shortages of such products.

Such orders and regulations shall provide for the making of such adjustments as may be necessary to prevent gross inequities, and shall be consistent with the standards issued pursuant to subsection (b).

"(b) In carrying out the authority vested in him by subsection (a), the President shall issue standards to serve as a guide for determining levels of wages, salaries, prices, rents, interest rates, corporate dividends, and similar transfers which are consistent with the purposes of this title and orderly economic growth. Such standards shall—

"(1) be generally fair and equitable;

"(2) provide for the making of such general exceptions and variations as are necessary to foster orderly economic growth and to prevent gross inequities, hardships, serious market disruptions, domestic shortages of raw materials, localized shortages of labor, and windfall profits;

"(3) take into account changes in productivity and the cost of living, as well as such other factors consistent with the purposes of this title as are appropriate;

"(4) provide for the requiring of appropriate reductions in prices and rents whenever warranted after consideration of lower costs, labor shortages, and other pertinent factors; and

"(5) call for generally comparable sacrifices by business and labor as well as other segments of the economy.

"(c)(1) The authority conferred on the President by this section shall not be exercised to limit the level of any wage or salary (including any insurance or other fringe benefit offered in connection with an employment contract) scheduled to take effect after November 13, 1971, to a level below that which has been agreed to in a contract which (A) related to such wage or salary, and (B) was executed prior to August 15, 1971, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(2) The President shall promptly take such action as may be necessary to permit the payment of any wage or salary increase (including any insurance or

other fringe benefit offered in connection with an employment contract) which (A) was agreed to in an employment contract executed prior to August 15, 1971, (B) was scheduled to take effect prior to November 14, 1971, and (C) was not paid as a result of orders issued under this title, unless the President determines that the increase provided in such contract is unreasonably inconsistent with the standards for wage and salary increases published under subsection (b).

"(3) In addition to the payment of wage and salary increases provided for under paragraphs (1) and (2), beginning on the date on which this subsection takes effect, the President shall promptly take such action as may be necessary to require the payment of any wage or salary increases (including any insurance or other fringe benefits offered in connection with employment) which have been, or in the absence of this subsection would be, withheld under the authority of this title, if the President determines that—

"(A) such increases were provided for by law or contract prior to August 15, 1971; and

"(B) prices have been advanced, productivity increased, taxes have been raised, appropriations have been made, or funds have otherwise been raised or provided for in order to cover such increases.

"(d) Notwithstanding any other provisions of this title, this title shall be implemented in such a manner that wage increases to any individual whose earnings are substandard or who is a member of the working poor shall not be limited in any manner, until such time as his earnings are no longer substandard or he is no longer a member of the working poor. The President shall prescribe regulations defining for the purposes of this subsection the term 'substandard earnings', but in no case shall such term be defined to mean earnings less than those resulting from a wage or salary rate which yields $3.50 per hour or less.

"(e) Whenever the authority of this title is implemented with respect to significant segments of the economy, the President shall require the issuance of regulations or orders providing for the stabilization of interest rates and finance charges, unless he issues a determination, accompanied by a statement of reasons, that such regulations or orders are not necessary to maintain such rates and charges at levels consonant with orderly economic growth.

"(f) The authority conferred by this section shall not be exercised to preclude the payment of any increase in wages—

"(1) required under the Fair Labor Standards Act of 1938, as amended [section 201 et seq. of Title 29], or effected as a result of enforcement action under such Act; or

"(2) required in order to comply with wage determinations made by any agency in the executive branch of the Government purusant to law for work (A) performed under contracts with, or to be performed with financial assistance from, the United States or the District of Columbia, or any agency or instrumentality thereof, or (B) performed by aliens who are immigrants or who have been temporarily admitted to the United States pursuant to the Immigration and Nationality Act [section 1101 et seq. of Title 8]; or

"(3) paid in conjunction with existing or newly established employee incentive programs which are designed to reflect directly increases in employee productivity.

"(g) For the purposes of this title, the term 'wages' and 'salaries' do not include reasonable contributions by any employer pursuant to a compensation adjustment for—

"(1) any pension, profit sharing, or annuity and savings plan which meets the requirements of section 401 (a), 404(a)(2), or 403(b) of the Internal Revenue Code of 1954 [section 401(a), 404(a)(2), or 403(b) of Title 26];

"(2) any group insurance plan; or

"(3) any disability and health plan;

unless the President determines that the contributions for such purposes made by any such employer are unreasonably inconsistent with the standards for wage, salary, and price increases issued under subsection (b) or under any other provision of this title. Employees in all industries subject to controls under this title shall be treated equally for purposes of this title.

"(h) No State or portion thereof shall be exempted from any application of this title with respect to rents solely by virtue of the fact that it regulates rents by State or local law, regulation of policy.

"(i) Rules, regulations, and orders issued under this title shall insofar as practicable be designed to encourage labor-management cooperation for the purpose of achieving increased productivity, and the Executive Director of the National Commission on Productivity shall when appropriate be consulted in the formulation of policies, rules, regulations, orders, and amendments under this title.

"(j) Nothing in this title may be construed to authorize or require the withholding or reservation of any obligational authority provided by law or of any funds appropriated under such authority.

"§ 204. Delegation

"The President may delegate the performance of any function under this title to such officers, departments, and agencies of the United States as he deems appropriate, or to boards, commissions, and similar entities composed in whole or in part of members appointed to represent different sectors of the economy and the general public. Members of such boards, commissions, and similar entities shall be appointed by the President by and with the advice and consent of the Senate; except that—

"(1) the foregoing requirement with respect to Senate confirmation does not apply to any member of any such board, commission, or similar entity (other than the Chairman of the Pay Board, established by section 7 of Executive Order Numbered 11627 of October 15, 1971, and the Chairman of the Price Commission, established by section 8 of such Executive Order) who is serving, pursuant to appointment by the President, on such board, commission, or similar entity on the date of enactment of the Economic Stabilization Act Amendments of 1971 [Dec. 22, 1971], and who continues to serve, pursuant to such appointment, on such board, commission, or similar entity after such date; and

"(2) any person serving in the office of Chairman of such Pay Board, and any person serving in the office of Chairman of such Price Commission, on the date of enactment of the Economic Stabilization Act Amendments of 1971 [Dec. 22, 1971], may continue to serve in such capacity on an interim basis without regard to the foregoing requirement with respect to Senate confirmation until the expiration of sixty days after the date of enactment of the Economic Stabilization Act Amendments of 1971 [Dec. 22, 1971]; and the provisions of sections 910–913 of title 5, United States Code, shall be applicable with respect to the procedure to be followed in the Senate in considering the nomination of any person to either of such offices submitted to the Senate by the President during such sixty-day period, except that references in such provisions to a 'resolution with respect to a reorganization plan' shall be deemed for the purpose of this section to refer to such nominations.

Where such boards, commissions, and similar entities are composed in part of members who serve on less than a full-time basis, legal authority shall be placed in their chairmen who shall be employees of the United States and who shall act only in accordance with the majority vote of members. Nothing in section 203, 205, 207, 208, or 209 of title 18, United States Code, shall be deemed to apply to any member of any such board, commission, or similar entity who serves on less than a full-time basis because of membership on such board, commission, or entity.

"§ 205. Confidentiality of information; public disclosure

"(a) Except as provided in subsection (b), all information reported to or otherwise obtained by any person exercising authority under this title which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for the purposes of that section, except that such information may be disclosed to other persons empowered to carry out this title solely for the purpose of carrying out this title or when relevant in any proceeding under this title.

"(b)(1) Any business enterprise subject to the reporting requirements under section 130.21(b) of the regulations of the Cost of Living Council in effect on January 11, 1973, shall make public any report (except for matter excluded in accordance with paragraph (2)) so required which covers a period during which that business enterprise charges a price for a substantial product which exceeds by more than 1.5 per centum the price lawfully in effect for such product on January 10, 1973, or on the date twelve months preceding the end of such period, whichever is later. As used in this subsection, the term 'substantial product' means any single product or service which accounted for 5 per centum or more of the gross sales or revenues of a business enterprise in its most recent full fiscal year.

"(2) A business enterprise may exclude from any report made public pursuant to paragraph (1) any information or data reported to the Cost of Living Council, proprietary in nature, which concerns or relates to the amount or sources of its income, profits, losses, costs, or expenditures but may not exclude from such report, data, or information, so reported, which concerns or relates to its prices for goods and services.

"(3) Immediately upon enactment of this subsection [Apr. 30, 1973] the President or his delegate shall issue regulations defining for the purpose of this subsection what information or data are proprietary in nature and therefore excludable under paragraph (2), except that such regulations may not define as excludable any information or data which cannot currently be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 [section 78m or 78o(d) of Title 15] by a business enterprise exclusively engaged in the manufacture or sale of a substantial product as defined in paragraph (1). Such regulations shall define as excludable any information or data which concerns or relates to the trade secrets, processes, operations, style of work, or apparatus of the business enterprise.

"§ 206. Subpena power

"The head of an agency exercising authority under this title, or his duly authorized agent, shall have authority, for any purpose related to this title, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this section, the head of the agency authorizing such subpena, or his delegate, may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such persons, after notice, to appear and give testimony, or to appear and produce documents before the agency.

"§ 207. Administrative procedure

"(a) The functions exercised under this title are excluded from the operation of subchapter II of chapter 5, and chapter 7 of title 5, United States Code, except as to the requirements of sections 552, 553, and 555(e) of title 5, United States Code.

"(b) Any agency authorized by the President to issue rules, regulations, or orders under this title shall, in regulations prescribed by it, establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or seeking an exception or exemption from, such rules, regulations, and orders. If such person is aggrieved by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the agency. The agency shall, in regulations prescribed by it, establish appropriate procedures, including hearings where deemed advisable, for considering such requests for action under this section: *Provided* That such agency shall issue no order which has the effect of reducing wages, or salaries in effect, or proposed to be put into effect, in an appropriate employee unit unless such order is made on the record after opportunity for a hearing. Not less than thirty days after issuance of such an order a statement of explanation shall be directed to the affected parties and made available to the public. Such statement shall include a full explanation of the reasons why the existing wage or salary, or proposed wage or salary adjustment, does not meet the requirements of or the standards established by the regulations prescribed by the agency.

"(c) To the maximum extent possible, the President or his delegate shall conduct formal hearings for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change in wages, salaries, prices, rents, interest rates, or corporate dividends or similar transfers, which have or may have a significantly large impact upon the national economy, and such hearings shall be open to the public except that a private formal hearing may be conducted to receive information considered confidential under section 205 of this title.

"§ 208. Sanctions; criminal fine and civil penalty

"(a) Whoever willfully violates any order or regulation under this title shall be fined not more than $5,000 for each violation.

"(b) Whoever violates any order or regulation under this title shall be subject to a civil penalty of not more than $2,500 for each violation.

"§ 209. Injunctions and other relief

"Whenever it appears to any person authorized by the President to exercise authority under this title that any individual or organization has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any order or regulation under this title, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any such order or regulation. In addition to such injunctive relief, the court may also order restitution of moneys received in violation of any such order or regulation.

"§ 210. Suits for damages or other relief

"(a) Any person suffering legal wrong because of any act or practice arising out of this title, or any order or regulation issued pursuant thereto, may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for a declaratory judgment, writ of injunction (subject to the limitations in section 211), and/or damages.

"(b) In any action brought under subsection (a) against any person renting property or selling goods or services who is found to have overcharged the plaintiff, the court may, in its discretion, award the plaintiff reasonable attorney's fees and costs, plus whichever of the following sums is greater:

"(1) an amount not more than three times the amount of the overcharge upon which the action is based, or

"(2) not less than $100 or more than $1,000;

except that in any case where the defendant establishes that the overcharge was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to the avoidance of such error the liability of the defendant shall be limited to the amount of the overcharge: *Provided*, That where the overcharge is not willful within the meaning of section 208(a) of this title, no action for an overcharge may be brought by or on behalf of any person unless such person has first presented to the seller or renter a bona fide claim for refund of the overcharge and has not received repayment of such overcharge within ninety days from the date of the presentation of such claim.

"(c) For the purposes of this section, the term 'overcharge' means the amount by which the consideration for the rental of property or the sale of goods or services exceeds the applicable ceiling under regulations or orders issued under this title.

"§ 211. Judicial review

"(a) The district courts of the United States shall have exclusive original jurisdiction of cases or controversies arising under this title, or under regulations or orders issued thereunder, notwithstanding the amount in controversy; except that nothing in this subsection or in subsection (h) of this section affects the power of any court of competent jurisdiction to consider, hear, and determine any issue by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title) raised in any proceeding before such court. If in any such proceeding an issue by way of defense is raised based on the constitutionality of this title or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code.

"(b)(1) There is hereby created a court of the United States to be known as the Temporary Emergency Court of Appeals, which shall consist of three or more judges to be designated by the Chief Justice of the United States from judges of the United States district courts and circuit courts of appeals. The Chief Justice of the United States shall designate one of such judges as chief judge of the Temporary Emergency Court of Appeals, and may, from time to time, designate additional judges for such court and revoke previous designations. The chief judge may, from time to time, divide the court into divisions of three or more members, and any such division may render judgment as the judgment of the court. Except as provided in subsection (d)(2) of this section, the court shall not have power to issue any interlocutory decree staying or restraining in whole or in part any provision of this title, or the effectiveness of any regulation or order issued thereunder. In all other respects, the court shall have the powers of a circuit court of appeals with respect to the jurisdiction conferred on it by this title. The court shall exercise its powers and prescribe rules governing its procedure in such manner as to expedite the determination of cases over which it has jurisdiction under this title. The court shall have a seal, hold sessions at such places as it may specify, and appoint a clerk and such other employees as it deems necessary or proper.

"(2) Except as otherwise provided in this section, the Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from the district courts of the United States in cases and controversies arising under this title or under regulations or orders issued thereunder. Such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

"(c) In any action commenced under this title in any district court of the United States in which the court determines that a substantial constitutional issue exists, the court shall certify such issue to the Temporary Emergency Court of Appeals. Upon such certification, the Temporary Emergency Court of Appeals shall determine the appropriate manner of disposition which may include a determination that the entire action be sent to it for consideration or it may, on the issues certified, give binding instructions and remand the action to the certifying court for further disposition.

"(d)(1) Subject to paragraph (2), no regulation of any agency exercising authority under this title shall be enjoined or set aside, in whole or in part, unless a final judgment determines that the issuance of such regulation was in excess of the agency's authority, was arbitrary or capricious, or was otherwise unlawful under the criteria set forth in section 706(2) of title 5, United States Code, and no order of such agency shall be enjoined or set aside, in whole or in part, unless a final judgment determines that such order is in excess of the agency's authority, or is based upon findings which are not supported by substantial evidence.

"(2) A district court of the United States or the Temporary Emergency Court of Appeals may enjoin temporarily or permanently the application of a particular regulation or order issued under this title to a person who is a party to litigation before it. Appeals from interlocutory decisions by a district court of the United States under this paragraph may be taken in accordance with the provisions of section 1292(b) of title 28, United States Code; except that reference in such section to the courts of appeals shall be deemed to refer to the Temporary Emergency Court of Appeals.

"(e)(1) Except as provided in subsection (d) of this section, no interlocutory or permanent injunction restraining the enforcement, operation, or execution of this title, or any regulation or order issued thereunder, shall be granted by any district court of the United States or judge thereof. Any such court shall have jurisdiction to declare (A) that a regulation of an agency exercising authority under this title is in excess of the agency's authority, is arbitrary or capricious, or is otherwise unlawful under the criteria set forth in section 706(2) of title 5, United States Code, or (B) that an order of such agency is invalid upon a determination that the order is in excess of the agency's authority, or is based upon findings which are not supported by substantial evidence.

"(2) Any party aggrieved by a declaration of a district court of the United States respecting the validity of any regulation or order issued under this title may, within thirty days after the entry of such declaration, file a notice of appeal therefrom in the Temporary Emergency Court of Appeals. In addition, any party believing himself entitled by reason of such declaration to a permanent injunction restraining the enforcement, operation, or execution of such regulation or order may file, within the same thirty-day period, a motion in the Temporary Emergency Court of Appeals requesting such injunctive relief. Following consideration of such appeal or motion, the Temporary Emergency Court of Appeals shall enter a final judgment affirming, reversing, or modifying the determination of the district court and granting such permanent injunctive relief, if any, as it deems appropriate.

"(f) The effectiveness of a final judgment of the Temporary Emergency Court of Appeals enjoining or setting aside in whole or in part any provision of this title, or any regulation or order issued thereunder, shall be postponed until the expiration of thirty-days from the entry thereof, except that if a petition for a writ of certiorari is filed with the Supreme Court under subsection (g) within such thirty days, the effectiveness of such judgment shall be postponed until an order of the Supreme Court denying such petition becomes final, or until other final disposition of the action by the Supreme Court.

"(g) Within thirty days after entry of any judgment or order by the Temporary Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a United States court of appeals as provided

in section 1254 of title 28, United States Code. The Temporary Emergency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Temporary Emergency Court of Appeals, shall have exclusive jurisdiction to determine the constitutional validity of any provision of this title or of any regulation or order issued under this title. Except as provided in this section, no court, Federal or State, shall have jurisdiction or power to consider the constitutional validity of any provision of this title or of any such regulation or order, or to stay, restrain, enjoin, or set aside, in whole or in part, any provision of this title authorizing the issuance of such regulations or orders, or any provision of any such regulation or order, or to restrain or enjoin the enforcement of any such provision.

"(h) The provisions of this section apply to any actions or suits pending in any court, Federal or State, on the date of enactment of this section [Dec. 22, 1971] in which no final order or judgment has been rendered. Any affected party seeking relief shall be required to follow the procedures of this title.

"§ 212. Personnel

"(a) Any agency or officer of the Government carrying out functions under this title is authorized to employ such personnel as the President deems necessary to carry out the purposes of this title.

"(b) The President may appoint five officers to be responsible for carrying out functions of this title of whom three shall be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314) and two at the rate prescribed for level V of the Executive Schedule (5 U.S.C. 5316). Appropriate titles and the order of succession among such officers may be designated by the President.

"(c) Any member of a board, commission, or similar entity established by the President pursuant to authority conferred by this title who serves on less than a full-time basis shall receive compensation from the date of his appointment at a rate equal to the per diem equivalent of the rate prescribed for level IV of the Executive Schedule (5 U.S.C. 5315) when actually engaged in the performance of his duties as such member.

"(d)(1) In addition to the number of positions which may be placed in GS–16, 17, and 18, under section 5108 of title 5, United States Code, not to exceed twenty positions may be placed in GS–16, 17, and 18, to carry out the functions under this title.

"(2) The authority under this subsection shall be subject to the procedures prescribed under section 5108 of title 5, United States Code, and shall continue only for the duration of the exercise of functions under this title.

"(e) The President may require the detail of employees from any executive agency to carry out the purposes of this title.

"(f) The President is authorized to appoint, without regard to the civil service laws, such advisory committees as he deems appropriate for the purpose of consultation with and advice to the President in the performance of his functions under this title. Members of advisory committees, other than those regularly employed by the Federal Government, while attending meetings of such committees or while otherwise serving at the request of the President may be paid compensation at rates not exceeding those authorized for individuals under section 5332 of title 5, United States Code, and, while so serving away from their homes or regular places of business, may be allowed travel expenses, including per diem as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(g)(1) Under such regulations as the President may prescribe, officers and employees of the Government who are appointed, without a break of service of one or more work days, to any position for carrying out functions under this title are entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

"(2) An officer or employee who, at the time of his appointment under paragraph (1) of this subsection, is covered by section 8336(c) of title 5, United States Code, shall continue to be covered thereunder while carrying out functions under this title.

"§ 213. Experts and consultants

"Experts and consultants may be employed, as authorized by section 3109 of title 5, United States Code, for the performance of functions under this title, and individuals so employed may be compensated at rates not to exceed the per diem equivalent of the rate for grade 18 of the General Schedule established by section 5332 of title 5, United States Code. Such contracts may be renewed from time to time without limitation. Service of an individual as an expert or consultant under this section shall not be considered as employment or the holding of an office or position bringing such individual within the provisions of section 3323(a) of title 5, United States Code, section 872 of the Foreign Service Act of 1946, or any other law limiting the reemployment of retired officers or employees.

"§ 214. Small business

"(a) It is the sense of the Congress that small business enterprises should be encouraged to make the greatest possible contribution toward achieving the objectives of this title.

"(b) In order to carry out the policy stated in subsection (a)—

"(1) the Small Business Administration shall to the maximum extent possible provide small business enterprises with full information concerning (A) the provisions of this title relating or of benefit to such enterprises, and (B) the activities of the various departments and agencies under this title;

"(2) in administering this title, such exemptions shall be provided for small business enterprises as may be feasible without impeding the accomplishment of the purposes of this title; and

"(3) in administering this title, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

"§ 215. Mass transportation systems

"No company, or other entity constituting a public benefit corporation, charged by law or contract with the responsibility to operate a mass transportation facility or facilities, the fares of which are not otherwise regulated, shall increase any fare without first obtaining approval under this section from the President or his delegate.

"§ 216. Reports

"(a) In transmitting the Economic Report required under section 3(a) of the Employment Act of 1946 (15 U.S.C. 1022), the President shall include a section describing the actions taken under this title during the preceding year and giving his assessment of the progress attained in achieving the purposes of this title. The President shall also transmit quarterly reports to the Congress not later than thirty days after the close of each calendar quarter describing the actions taken under this title during the preceding quarter and giving his assessment of the progress attained in achieving the purposes of this title.

"(b) In carrying out his authority under this title, the President shall study and evaluate the relationship between excess profits, the stabilization of the economy, and the creation of new jobs. The results of such study shall be incorporated in the reports referred to in subsection (a).

"§ 217. Funding

"(a) There are authorized to be appropriated to the President, to remain available until expended, such sums as may be necessary to carry out the provisions of this title.

"(b) The President may accept and use in furtherance of the purposes of this title money, funds, property, and services of any kind made available for such purposes by gift, devise, bequest, grant, or otherwise.

"§ 218. Expiration

"The authority to issue and enforce orders and regulations under this title expires at midnight April 30, 1974, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to May 1, 1974.

"§ 219. Ratification

"The assignment of personnel and expenditure of funds pursuant to the authority conferred on the President by this title prior to the date of enactment of the Economic Stabilization Act Amendments of 1971 [Dec. 22, 1971] are hereby approved, ratified, and confirmed.

"§ 220. Severability

"If any provision of this title or the application of such provision to any person or circumstances is held invalid, the remainder of the title, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby."

CHANGE OF NAME

National Commission on Productivity to be known, after June 8, 1974, as National Commission on Productivity and Work Quality, see section 1026 of Title 15, Commerce and Trade.

DELEGATION OF FUNCTIONS

Functions of the President under section 203(a)(3) of the Economic Stabilization Act of 1970, as amended [set out as a note above], and functions of the Chairman of the Cost of Living Council under said Act, respecting energy matters, delegated to the Administrator of the Federal Energy Office, see section 4 of Ex. Ord. No. 11748, Dec. 4, 1973, 38 F.R. 33575, set out as a note under section 754 of Title 15, Commerce and Trade.

SHORT TITLE OF 1973 AMENDMENT

Section 1 of Pub. L. 93-28, Apr. 30, 1973, 87 Stat. 27, provided: "That this Act [which amended Cost of Living Stabilization provisions, sections 202, 203(a), (d), (g), (j), 205, 207(b), and 218 of Pub. L. 91-379, set out as a note above] may be cited as the 'Economic Stabilization Act Amendments of 1973'."

SHORT TITLE OF 1971 AMENDMENT

Section 1 of Pub. L. 92-210, Dec. 22, 1971, 85 Stat. 743, provided: "That this Act [which amended Cost of Living Stabilization provisions, set out as a note above, amended provisions set out as a note under section 5305 of title 5, and enacted section 1026 of title 15] may be cited as the 'Economic Stabilization Act Amendments of 1971'."

EXEMPTION FROM PRICE RESTRAINTS AND ALLOCATION PROGRAMS OF FIRST SALE OF CRUDE OIL AND NATURAL GAS OF CERTAIN LEASES

Pub. L. 93-153, title IV, § 406, Nov. 16, 1973, 87 Stat. 590, which provided that the first sale of crude oil and natural gas liquids produced from any lease whose average daily production did not exceed ten barrels per well not be subject to price restraints or any allocation program established pursuant to any Federal law, was repealed by Pub. L. 94-163, title IV, § 401(b)(4), Dec. 22, 1975, 89 Stat. 946. For effective date of repeal of section 406 of Pub. L. 93-153, see section 401(b)(5) of Pub. L. 94-163, set out as a note under section 753 of Title 15, Commerce and Trade.

EXECUTIVE ORDER No. 11615

Ex. Ord. No. 11615, Aug. 15, 1971, 36 F.R. 15727, as amended by Ex. Ord. No. 11617, Sept. 2, 1971, 36 F.R. 17813, which related to the stabilization of prices, rents, wages, and salaries, and the establishment of the Cost of Living Council, was superseded by Ex. Ord. No. 11627, Oct. 15, 1971, 36 F.R. 20139, set out as a note under this section.

EXECUTIVE ORDER No. 11627

Ex. Ord. No. 11627, Oct. 15, 1971, 36 F.R. 20139, as amended by Ex. Ord. No. 11630, Oct. 30, 1971, 36 F.R. 21023; Ex. Ord. No. 11632, Nov. 22, 1971, 36 F.R. 22221, which related to the stabilization of the economy, was revoked by Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113, set out as a note under this section.

EXECUTIVE ORDER No. 11640

Ex. Ord. No. 11640, Jan. 26, 1972, 37 F.R. 1213, as amended by Ex. Ord. No. 11660, Mar. 23, 1972, 37 F.R. 6175; Ex. Ord. No. 11674, June 29, 1972, 37 F.R. 12913, which related to the stabilization of the economy, was revoked by Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113, set out as a note under this section.

EXECUTIVE ORDER No. 11695

Ex. Ord. No. 11695, Jan. 11, 1973, 38 F.R. 1473, which provided for the stabilization of the economy, was revoked by Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113, set out as a note under this section.

EXECUTIVE ORDER No. 11723

Ex. Ord. No. 11723, June 13, 1973, 38 F.R. 15765, which established a freeze on prices for a maximum period of 60 days, was revoked by Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113, set out as a note under this section.

EXECUTIVE ORDER No. 11730

Ex. Ord. No. 11730, July 18, 1973, 38 F.R. 19345, which provided for further stabilization of the economy, was revoked by Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113, set out as a note under this section.

EX. ORD. NO. 11788. TERMINATION OF ECONOMIC STABILIZATION PROGRAM

Ex. Ord. No. 11788, June 18, 1974, 39 F.R. 22113, provided:

The authority contained in the Economic Stabilization Act of 1970, as amended, [set out as a note above], to impose a system of mandatory wage and price controls expired at midnight on April 30, 1974, Executive Order No. 11781 of May 1, 1974, provided for an orderly transition from mandatory controls, for the continuation of enforcement procedures under the Economic Stabilization Act of 1970, as amended, [set out as a note under this section], with respect to acts committed prior to May 1, 1974, for the continuation of the Cost of Living Council, and the continuation of monitoring and other functions of the Council for the period May 1, 1974, through June 30, 1974. However, the orderly termination of the Economic Stabilization Program will require several more months of follow-up activities. The Economic Stabilization Act of 1970, as amended, [set out as a note above], permits the maintenance of authority to take appropriate action with respect to any action or pending proceedings, civil or criminal, not finally determined on April 30, 1974, or with respect to matters before the Council that relate to wages paid for work performed prior to May 1, 1974, and prices charged prior to May 1, 1974. In order to meet these requirements and to assure the proper disposition of the files, records, data, and other financial and administrative matters relating to the Economic Stabilization Act [set out as a note above], I am, by this Order, delegating to the Secretary of the Treasury such Presidential authority as may remain under the Economic Stabilization Act of 1970, as amended [set out as a note above], and assigning to him the responsibility for taking such action as may be necessary and appropriate to achieve the limited objectives described above.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and Statutes of the United States, including the Economic Stabilization Act of 1970 (P.L. 91-379, 84 Stat. 799) as amended [set out as note above], and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. The Cost of Living Council, established by Section 2 of Executive Order No. 11615 of August 15, 1971, and continued by Executive Order No. 11627 of October 15, 1971, Executive Order No. 11640 of January 26, 1972, Executive Order No. 11695 of January 11, 1973, Executive Order No. 11730 of July 18, 1973, and Executive Order No. 11781 of May 1, 1974, is hereby abolished.

SEC. 2. All the powers and duties conferred upon the President by the Economic Stabilization Act of 1970, as amended [set out as a note above], are hereby delegated to the Secretary of the Treasury who shall exercise them so as to provide for the orderly termination of the Economic Stabilization Program. That authority shall be exercised only to the extent necessary to provide for the orderly termination of the Economic Stabilization Program, including the taking of appropriate action with respect to any action or pending proceedings, civil or criminal, not finally determined on April 30, 1974, or with respect to any act committed prior to May 1, 1974, and as hereinafter provided. The Secretary of the Treasury is authorized to redelegate such powers and duties to other officials or agencies of the United States, as may be appropriate.

SEC. 3. The Secretary of the Treasury or his designee shall provide for the continuation of any action or pending proceedings, civil or criminal, not finally determined prior to May 1, 1974, as appropriate. He shall continue to receive reports and review pay adjustments with respect to work performed prior to May 1, 1974, and price adjustments with respect to prices charged prior to May 1, 1974, and take appropriate remedial action whenever he finds such adjustments were in violation of applicable Economic Stabilization Regulations.

SEC. 4. Nothing in this Order shall be construed as authorizing the imposition or reimposition of any mandatory economic controls with respect to prices, rents, wages, salaries, corporate dividends, interest rates, or any similar transfer, other than on the basis of the authority provided in Sections 2 and 3 of this Order with respect to enforcement activity related to the period prior to May 1, 1974.

SEC. 5(a). The Secretary of the Treasury or his designee is authorized:

(1) To employ such personnel as he deems necessary to perform the functions conferred upon him by this Order including personnel previously employed by the Cost of Living Council

(2) To appoint pursuant to Section 212(b) of the Economic Stabilization Act of 1970 as amended [set out as a note above], not more than one officer who shall be compensated at the rate prescribed for level V of the Executive Schedule (5 U.S.C. 5316) for the purposes of carrying out functions under this Order through December 31, 1974.

(3) To place no more than 3 positions in GS-16, 17, and 18, pursuant to Section 212(d) of the Economic Stabilization Act of 1970, as amended [set out as a note above], for purposes of carrying out this Order through December 31, 1974.

(4) To receive from the Cost of Living Council and be the custodian of all the records and data not otherwise properly disposed of by June 30, 1974, including the records and data of all Advisory Committees to the Council.

(5) To receive from the Cost of Living Council custody of and accountability for property (real and personal) and equipment not otherwise properly disposed of by June 30, 1974.

(b) The Secretary of the Treasury shall—

(1) Provide for the compilation of a history of the Economic Stabilization Program by December 31, 1974; and

(2) Provide for the appropriate disposition of all property (real and personal), records, data, and personnel transferred hereunder or relating to the activities conferred upon him by this Order.

SEC. 6. Any officer or employee who was serving in the Economic Stabilization Program, on or before June 30, 1974, and who while so serving was guaranteed reemployment rights to his former agency by virtue of such service, shall retain such rights through December 31, 1974, if employed by the Secretary of the Treasury or his designee to perform functions under this Order, without a break in service of one day or more.

SEC. 7. The following committees and boards are abolished:

(1) The Cost of Living Council Committee on Health established by Section 6 of Executive Order No. 11695 of January 11, 1973, and continued through June 30, 1974, by Executive Order No. 11781 of May 1, 1974.

(2) The Cost of Living Council Committee on Food established by Section 7 of Executive Order No. 11695 of January 11, 1973, and continued through June 30, 1974. by Executive Order No. 11781 of May 1, 1974.

(3) The Labor-Management Advisory Committee established by Section 8 of Executive Order No. 11695 of January 11, 1973, and continued through June 30, 1974, by Executive Order No. 11781 of May 1, 1974.

(4) The Construction Industry Stabilization Committee, established by Executive Order No. 11588 of March 29, 1971, and continued by Executive Order No. 11695 of January 11, 1973, and Executive Order No. 11781 of May 1, 1974.

SEC. 8. The Secretary of the Treasury, or his designee, may, for the purposes of carrying out this Order, continue any advisory committees previously established by the Cost of Living Council and not abolished by the Council prior to the effective date of this Order. He shall make appropriate provisions for abolishing, on or before December 31, 1974, all Council Advisory committees so continued.

SEC. 9. This Order shall not be deemed to affect any authority (1) exercised by the Federal Energy Office with respect to pricing and allocation of crude oil, residual fuel oil, and refined petroleum products (as defined in the Emergency Petroleum Allocation Act of 1973) [section 751 et seq. of Title 15], pursuant to the Economic Stabilization Act of 1970, as amended [set out as a note above], the Emergency Petroleum Allocation Act of 1973, Executive Order No. 11748 of December 4, 1973 [set out as a note under section 754 of Title 15, Commerce and Trade], or Cost of Living Council Order No. 47, as amended, or (2) any comparable authority vested in, or delegated to, the Administrator of the Federal Energy Administration.

SEC. 10. Executive Order No. 11588 of March 29, 1971, Executive Order No. 11627 of October 15, 1971, Executive Order No. 11640 of January 26, 1972, Executive Order No. 11695 of January 11, 1973, Executive Order No. 11723 of June 13, 1973, Executive Order No. 11730 of July 18, 1973, and Executive Order No. 11781 of May 1, 1974, are revoked.

SEC. 11. Sections 1 through 10 of this Order shall be effective as of July 1, 1974.

SEC. 12(a). There is hereby established the President's Committee on Food, which shall be composed of the Counsellor to the President for Economic Policy, who shall be its Chairman, the Secretary of State, the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Executive Director of the Council on International Economic Policy, and such other members as the President may, from time to time, designate.

(b) The President's Committee on Food shall review Government activities significantly affecting food costs and prices and provide coordination for the Nation's policy relating to domestic and international food supplies and relating to food costs and prices

(c) The President's Committee on Food shall terminate on December 31, 1974.

RICHARD NIXON.

EX. ORD. NO. 11821. ECONOMIC IMPACT STATEMENTS

Ex. Ord. No. 11821, Nov. 27, 1974, 39 F.R. 41501, as amended by Ex. Ord. No. 11949, Dec. 31, 1976, 42 F.R. 1017, provided:

In my address to the Congress on October 8, 1974, I announced that I would require that all major legisla-

tive proposals, regulations, and rules emanating from the executive branch of the Government include a statement certifying that the inflationary impact of such actions on the Nation has been carefully considered. I have determined that this objective can best be achieved in coordination with the budget preparation, legislative clearance, and management evaluation functions of the Director of the Office of Management and Budget.

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States of America by the Constitution and laws of the United States, it is hereby ordered as follows:

SECTION 1. Major proposals for legislation, and for the promulgation of regulations or rules by any executive branch agency must be accompanied by a statement which certifies that the inflationary impact of the proposal has been evaluated. Such evaluation must be in accordance with criteria and procedures established pursuant to this order.

SEC. 2(a). The Director of the Office of Management and Budget is designated and empowered, to the extent permitted by law, to develop criteria for the identification of major legislative proposals, regulations, and rules emanating from the executive branch which may have a significant impact upon inflation, and to prescribe procedures for their evaluation.

(b) The Director, in carrying out the provisions of this order, may delegate functions to the head of any department or agency, including the Chairman of the Council on Wage and Price Stability, when appropriate in the exercise of his responsibilities pursuant to this order.

SEC. 3. In developing criteria for identifying legislative proposals, regulations, and rules subject to this order, the Director must consider, among other things, the following general categories of significant impact:

a. cost impact on consumers, businesses, markets, or Federal, State or local government;

b. effect on productivity of wage earners, business or government at any level;

c. effect on competition;

d. effect on supplies of important products or services.

SEC. 4. Each Federal department and agency must, to the extent permitted by law, cooperate with the Director of the Office of Management and Budget in the performance of his functions under this order, furnish him with such information as he may request, and comply with the procedures prescribed pursuant to this order.

SEC. 5. This order expires December 31, 1977, unless extended prior to that time.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1905 of this title.

§ 1905. Extent of control

The Board, upon being authorized by the President under section 1904 of this title and for such period of time as he may determine, may by regulation

(1) require transactions or persons or classes of either to be registered or licensed.

(2) prescribe appropriate limitations, terms, and conditions for any such registration or license.

(3) provide for suspension of any such registration or license for violation of any provision thereof or of any regulation, rule, or order prescribed under this Act.

(4) prescribe appropriate requirements as to the keeping of records and as to the form, contents, or substantive provisions of contracts, liens, or any relevant documents.

(5) prohibit solicitations by creditors which would encourage evasion or avoidance of the requirements of any regulation, license, or registration under this Act.

(6) prescribe the maximum amount of credit which may be extended on, or in connection with, any loan, purchase, or other extension of credit.

(7) prescribe the maximum rate of interest, maximum maturity, minimum periodic payment, maximum period between payments, and any other specification or limitation of the terms and conditions of any extension of credit.

(8) prescribe the methods of determining purchase prices or market values or other bases for computing permissible extensions of credit or required downpayment.

(9) prescribe special or different terms, conditions, or exemptions with respect to new or used goods, minimum original cash payments, temporary credits which are merely incidental to cash purchases, payment or deposits usable to liquidate credits, and other adjustments or special situations.

(10) prescribe maximum ratios, applicable to any class of either creditors or borrowers or both, of loans, of one or more types or of all types.

(A) to deposits of one or more types or of all types.

(B) to assets of one or more types or of all types.

(11) prohibit or limit any extensions of credit under any circumstances the Board deems appropriate.

(Pub. L. 91-151, title II, § 206, Dec. 23, 1969, 83 Stat. 377.)

REFERENCES IN TEXT

This Act, referred to in pars. (3) and (5), is Pub. L. 91-151, Dec. 23, 1969, 83 Stat. 377, which is classified generally to this chapter. For complete classification of this Act to the Code, see Tables volume.

§ 1906. Reports; production of records

Reports concerning the kinds, amounts, and characteristics of any extensions of credit subject to this chapter, or concerning circumstances related to such extensions of credit, shall be filed on such forms, under oath or otherwise, at such times and from time to time, and by such persons, as the Board may prescribe by regulation or order as necessary or appropriate for enabling the Board to perform its functions under this chapter. The Board may require any person to furnish, under oath or otherwise, complete information relative to any transaction within the scope of this chapter including the production of any books of account, contracts, letters, or other papers, in connection therewith in the custody or control of such person.

(Pub. L. 91-151, title II, § 207, Dec. 23, 1969, 83 Stat. 378.)

§ 1907. Injunctions for compliance

Whenever it appears to the Board that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation under this chapter,

it may in its discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Board, any such court may also issue mandatory injunctions commanding any person to comply with any regulation of the Board under this chapter.

(Pub. L. 91-151, title II, § 208, Dec. 23, 1969, 83 Stat. 378.)

§ 1908. Civil penalties

(a) For each willful violation of any regulation under this chapter, the Board may assess upon any person to which the regulation applies, and upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) In the event of the failure of any person to pay any penalty assessed under this section, a civil action for the recovery thereof may, in the discretion of the Board, be brought in the name of the United States.

(Pub. L. 91-151, title II, § 209, Dec. 23, 1969, 83 Stat. 378.)

§ 1909. Criminal penalty

Whoever willfully violates any regulation under this chapter shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 91-151, title II, § 210, Dec. 23, 1969, 83 Stat. 378.)

CHAPTER 21—FINANCIAL RECORDKEEPING

Sec.
1951. Congressional findings and declaration of purpose.
1952. Reports on ownership and control.
1953. Recordkeeping and procedures.
1954. Injunctions.
1955. Civil penalties
1956. Criminal penalty.
1957. Additional criminal penalty in certain cases.
1958. Compliance.
1959. Administrative procedure.

§ 1951. Congressional findings and declaration of purpose

(a) The Congress finds that certain records maintained by businesses engaged in the functions described in section 1953(b) of this title have a high degree of usefulness in criminal, tax, and regulatory investigations and proceedings. The Congress further finds that the power to require reports of changes in the ownership, control, and managements of types of financial institutions referred to in section 1952 of this title may be necessary for the same purpose.

(b) It is the purpose of this chapter to require the maintenance of appropriate types of records and the making of appropriate reports by such businesses in the United States where such records or reports have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

(Pub. L. 91-508, title I, § 121, Oct. 26, 1970, 84 Stat. 1116.)

EFFECTIVE DATE

Chapter effective on the first day of the seventh calendar month which begins after Oct. 26, 1970, except that the Secretary of the Treasury may, by regulation, provide that any provision thereof be effective on any date not earlier than the publication of such regulations in the Federal Register and not later than the first day of the thirteenth calendar month which begins after Oct. 26, 1970, see section 401(a) and (b) of Pub. L. 91-508, set out as a note under section 1051 of Title 31, Money and Finance.

§ 1952. Reports on ownership and control

Where the Secretary determines that the making of appropriate reports by uninsured banks or uninsured institutions of any type with respect to their ownership, control, and managements and any changes therein has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, he may by regulation require such banks or institutions to make such reports as he determines in respect of such ownership, control, and managements and changes therein.

(Pub. L. 91-508, title I, § 122, Oct. 26, 1970, 84 Stat. 1116.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1951 of this title.

§ 1953. Recordkeeping and procedures

(a) Where the Secretary determines that the maintenance of appropriate records and procedures by any uninsured bank or uninsured institution, or any person engaging in the business of carrying on in the United States any of the functions referred to in subsection (b) of this section, has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, he may by regulation require such bank, institution, or person—

(1) to require, retain, or maintain, with respect to its functions as an uninsured bank or uninsured institution or its functions referred to in subsection (b) of this section, any records or evidence of any type which the Secretary is authorized under section 1829b of this title to require insured banks to require, retain, or maintain; and

(2) to maintain procedures to assure compliance with requirements imposed under this chapter. For the purposes of any civil or criminal penalty, a separate violation of any requirement under this paragraph occurs with respect to each day and each separate office, branch, or place of business in which the violation occurs or continues.

(b) The authority of the Secretary under this section extends to any person engaging in the business of carrying on any of the following functions:

(1) Issuing or redeeming checks, money orders, travelers' checks, or similar instruments, except as an incident to the conduct of its own nonfinancial business.

(2) Transferring funds or credits domestically or internationally.

(3) Operating a currency exchange or otherwise dealing in foreign currencies or credits.

(4) Operating a credit card system.

(5) Performing such similar, related, or substitute functions for any of the foregoing or for banking as may be specified by the Secretary in regulations.

(Pub. L. 91-508, title I, § 123, Oct. 26, 1970, 84 Stat. 1116.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1951 of this title.

§ 1954. Injunctions

Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in any acts or practices constituting a violation of any regulation under this chapter, he may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. Upon application of the Secretary, any such court may also issue mandatory injunctions commanding any person to comply with any regulation of the Secretary under this chapter.

(Pub. L. 91-508, title I, § 124, Oct. 26, 1970, 84 Stat. 1117.)

§ 1955. Civil penalties

(a) For each willful violation of any regulation under this chapter, the Secretary may assess upon any person to which the regulation applies, and, if such person is a partnership, corporation, or other entity, upon any partner, director, officer, or employee thereof who willfully participates in the violation, a civil penalty not exceeding $1,000.

(b) In the event of the failure of any person to pay any penalty assessed under this section, a civil action for the recovery thereof may, in the discretion of the Secretary, be brought in the name of the United States.

(Pub. L. 91-508, title I, § 125, Oct. 26, 1970, 84 Stat. 1117.)

§ 1956. Criminal penalty

Whoever willfully violates any regulation under this chapter shall be fined not more than $1,000 or imprisoned not more than one year, or both.

(Pub. L. 91-508, title I, § 126, Oct. 26, 1970, 84 Stat. 1118.)

§ 1957. Additional criminal penalty in certain cases

Whoever willfully violates any regulation under this chapter, section 1829b of this title, or section 1730d of this title, where the violation is committed in furtherance of the commission of any violation of Federal law punishable by imprisonment for more than one year, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(Pub. L. 91-508, title I, § 127, Oct. 26, 1970, 84 Stat. 1118.)

§ 1958. Compliance

The Secretary shall have the responsibility to assure compliance with the requirements of this chapter and sections 1730d and 1829b of this title and may delegate such responsibility to the appropriate bank supervisory agency, or other supervisory agency.

(Pub. L. 91-508, title I, § 128, Oct. 26, 1970, 84 Stat. 1118.)

§ 1959. Administrative procedure

The administrative procedure and judicial review provisions of subchapter II of chapter 5 and chapter 7 of title 5 shall apply to all proceedings under this chapter, section 1829b of this title, and section 1730d of this title.

(Pub. L. 91-508, title I, § 129, Oct. 26, 1970, 84 Stat. 1118.)

CHAPTER 22—TYING ARRANGEMENTS

Sec.

1971. Definitions.
1972. Certain tie-in arrangements; prohibition; exceptions.
1973. Jurisdiction of courts; duty of United States attorneys; equitable proceedings; petition; expedition of cases; temporary restraining orders; bringing in additional parties; subpenas.
1974. Actions by United States; subpenas for witnesses.
1975. Civil actions by persons injured; jurisdiction and venue; amount of recovery.
1976. Injunctive relief for persons against threatened loss or damages; equitable proceedings; preliminary injunctions.
1977. Limitation of actions; suspension of limitations.
1978. Actions under other Federal or State laws unaffected; regulations or orders barred as a defense.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1850 of this title.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 47-1580 of the District of Columbia Code.

§ 1971. Definitions

As used in this chapter, the terms "bank", "bank holding company", "subsidiary", and "Board" have the meaning ascribed to such terms in section 1841 of this title. For purposes of this chapter only, the term "company", as used in section 1841 of this title, means any person, estate, trust, partnership, corporation, association, or similar organization, but does not include any corporation the majority of the shares of which are owned by the United States or by any State. The term "trust service" means any service customarily performed by a bank trust department.

(Pub. L. 91-607, title I, § 106(a), Dec. 31, 1970, 84 Stat. 1766.)

§ 1972. Certain tie-in arrangements; prohibition; exceptions

A bank shall not in any manner extend credit, lease or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

(1) that the customer shall obtain some additional credit, property, or service from such bank other than a loan, discount, deposit, or trust service;

(2) that the customer shall obtain some additional credit, property, or service from a bank holding company of such bank, or from any other subsidiary of such bank holding company;

(3) that the customer provide some additional credit, property, or service to such bank, other than those related to and usually provided in connection with a loan, discount, deposit, or trust service;

(4) that the customer provide some additional credit, property, or service to a bank holding company of such bank, or to any other subsidiary of such bank holding company; or

(5) that the customer shall not obtain some other credit, property, or service from a competitor of such bank, a bank holding company of such bank, or any subsidiary of such bank holding company, other than a condition or requirement that such bank shall reasonably impose in a credit transaction to assure the soundness of the credit.

The Board may by regulation or order permit such exceptions to the foregoing prohibition as it considers will not be contrary to the purposes of this chapter.

(Pub. L. 91-607, title I, § 106(b), Dec. 31, 1970, 84 Stat. 1766.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1973, 1974, 1975, 1976 of this title.

§ 1973. Jurisdiction of courts; duty of United States attorneys; equitable proceedings; petition; expedition of cases; temporary restraining orders; bringing in additional parties; subpenas

The district courts of the United States have jurisdiction to prevent and restrain violations of section 1972 of this title and it is the duty of the United States attorneys, under the direction of the Attorney General, to institute proceedings in equity to prevent and restrain such violations. The proceedings may be by way of a petition setting forth the case and praying that the violation be enjoined or otherwise prohibited. When the parties complained of have been duly notified of the petition, the court shall proceed, as soon as possible, to the hearing and determination of the case. While the petition is pending, and before final decree, the court may at any time make such temporary restraining order or prohibition as it deems just. Whenever it appears to the court that the ends of justice require that other parties be brought before it, the court may cause them to be summoned whether or not they reside in the district in which the court is held, and subpenas to that end may be served in any district by the marshal thereof.

(Pub. L. 91-607, title I, § 106(c), Dec. 31, 1970, 84 Stat. 1767.)

§ 1974. Actions by United States; subpenas for witnesses

In any action brought by or on behalf of the United States under section 1972 of this title, subpenas for witnesses may run into any district, but no writ of subpena may issue for witnesses living out of the district in which the court is held at a greater distance than one hundred miles from the place of holding the same without the prior permission of the trial court upon proper application and cause shown.

(Pub. L. 91-607, title I, § 106(d), Dec. 31, 1970, 84 Stat. 1767.)

§ 1975. Civil actions by persons injured; jurisdiction and venue; amount of recovery

Any person who is injured in his business or property by reason of anything forbidden in section 1972 of this title may sue therefor in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, and shall be entitled to recover three times the amount of the damages sustained by him, and the cost of suit, including a reasonable attorney's fee.

(Pub. L. 91-607, title I, § 106(e), Dec. 31, 1970, 84 Stat. 1767.)

§ 1976. Injunctive relief for persons against threatened loss or damages; equitable proceedings; preliminary injunctions

Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of section 1972 of this title, under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings. Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

(Pub. L. 91-607, title I, § 106(f), Dec. 31, 1970, 84 Stat. 1767.)

§ 1977. Limitation of actions; suspension of limitations

(1) Subject to paragraph (2) of this section, any action to enforce any cause of action under this chapter shall be forever barred unless commenced within four years after the cause of action accrued.

(2) Whenever any enforcement action is instituted by or on behalf of the United States with respect to any matter which is or could be the subject of a private right of action under this chapter, the running of the statute of limitations in respect of every private right of action arising under this chapter and based in whole or in part on such matter shall be suspended during the pendency of the enforcement action

so instituted and for one year thereafter: *Provided,* That whenever the running of the statute of limitations in respect of a cause of action arising under this chapter is suspended under this paragraph, any action to enforce such cause of action shall be forever barred unless commenced either within the period of suspension or within the four-year period referred to in paragraph (1) of this section.

(Pub. L. 91-607, title I, § 106(g), Dec. 31, 1970, 84 Stat. 1768.)

§ 1978. Actions under other Federal or State laws unaffected; regulations or orders barred as a defense

Nothing contained in this chapter shall be construed as affecting in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this chapter. No regulation or order issued by the Board under this chapter shall in any manner constitute a defense to such action.

(Pub. L. 91-607, title I, § 106(h), Dec. 31, 1970, 84 Stat. 1768.)

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 15 sections 1607, 1691c.

§ 2001. Congressional declaration of policy and objectives

(a) It is declared to be the policy of the Congress, recognizing that a prosperous, productive agriculture is essential to a free nation and recognizing the growing need for credit in rural areas, that the farmer-owned cooperative Farm Credit System be designed to accomplish the objective of improving the income and well-being of American farmers and ranchers by furnishing sound, adequate, and constructive credit and closely related services to them, their cooperatives, and to selected farm-related businesses necessary for efficient farm operations.

(b) It is the objective of this chapter to continue to encourage farmer- and rancher-borrowers participation in the management, control, and ownership of a permanent system of credit for agriculture which will be responsive to the credit needs of all types of agricultural producers having a basis for credit, and to modernize and improve the authorizations and means for furnishing such credit and credit for housing in rural areas made available through the institutions constituting the Farm Credit System as herein provided.

(Pub. L. 92-181, § 1.1, Dec. 10, 1971, 85 Stat. 583.)

SHORT TITLE

Section 1 of Pub. L. 92-181 provided: "That this Act [enacting this chapter and provisions set out as notes under this section, amending sections 5314 and 5315 of Title 5, Government Organization and Employees, and section 393 of this title, and repealing section 636 et seq. of this title] may be cited as the 'Farm Credit Act of 1971'."

REPEALS

Pub. L. 92-181, which enacted this chapter, represents a complete rewriting of the farm credit laws and a fundamental reworking of the statutory basis for the farm credit system. In connection with such reworking of material, the existing statutory provisions covering this area were repealed and their substance revised, reenacted, and expanded by Pub. L. 92-181.

The repealed provisions constituted the bulk of chapter 7 of this title. Section 5.26(a) of Pub. L. 92-181 enumerated the repealed statutes as follows: The Federal Farm Loan Act, as amended; section 2 of the Act of March 10, 1924 (Public Numbered 35, Sixty-eighth Congress, 43 Stat. 17), as amended; section 6 of the Act of January 23, 1932 (Public Numbered 3, Seventy-second Congress, 47 Stat. 14), as amended; the Farm Credit Act of 1933, as amended; sections 29 and 40 of the Emergency Farm Mortgage Act of 1933; Act of June 18, 1934 (Public Numbered 381, Seventy-third Congress, 48 Stat. 983); Act of June 4, 1936 (Public Numbered 644, Seventy-fourth Congress, 49 Stat. 1461), as amended; sections 5, 6, 20, 25(b) and 39 of the Farm Credit Act of 1937, as amended; sections 601 and 602 of the Act of September 21, 1944 (Public Law 425, Seventy-eighth Congress, 58 Stat. 740, 741), as amended; sections 1, 2, 3, 4, 5, 6, 7, 8, 16, and 17(b) of the Farm Credit Act of 1953, as amended; sections 2, 101, and 201(b) of the Farm Credit Act of 1956.

SAVINGS PROVISION

Section 5.26(b) of Pub. L. 92-181 provided that: "All regulations of the Farm Credit Administration or the institutions of the System and all charters, bylaws, resolutions, stock classifications, and policy directives issued or approved by the Farm Credit Administration, and all elections held and appointments made under the Acts repealed by subsection (a) of this section [see Repeals note above] shall be continuing and remain valid until superseded, modified, or replaced under the authority of this Act [this chapter]. All stock, notes, bonds, debentures, and other obligations issued under the repealed acts shall be valid and enforceable upon the terms and conditions under which they were issued, including the pledge of collateral against which they were issued, and all loans made and security or collateral therefor held by, and all contracts entered into by, institutions of the System shall remain enforceable according to their terms unless and until modified in accordance with the provisions of this Act; it being the purpose of this subsection to avoid disruption in the effective operation of the System by reason of said repeals."

SEPARABILITY OF PROVISIONS

Section 5.28 of Pub. L. 92-181 provided that: "If any provision of this Act [this chapter], or the application thereof to any persons or in any circumstances, is held invalid, the remainder of this Act and the application of such provision to other persons or in other circumstances shall not be affected thereby."

REFERENCES TO EARLIER FARM CREDIT ACTS

Section 5.26(a) of Pub. L. 92-181 provided in part that: "All references in other legislation, State or Federal, rules and regulations of any agency, stock, contracts, deeds, security instruments, bonds, debentures, notes, mortgages and other documents of the institutions of the System, to the Acts repealed hereby [see Repeals note above], shall be deemed to refer to comparable provisions of this Act [this chapter]."

RESERVATION OF RIGHT TO AMEND OR REPEAL

Section 5.29 of Pub. L. 92-181 provided that: "The right to alter, amend, or repeal any provision or all of this Act [this chapter] is expressly reserved."

§ 2002. Farm Credit System

The Farm Credit System shall include the Federal land banks, the Federal land bank associations, the Federal intermediate credit banks, the production credit associations, the banks for cooperatives, and such other institutions as may be made a part of the System, all of which shall be chartered by and subject to the supervision of the Farm Credit Administration.

(Pub. L. 92-181, § 1.2, Dec. 10, 1971, 85 Stat. 583.)

SUBCHAPTER I—FEDERAL LAND BANKS AND ASSOCIATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2156, 2181 of this title.

PART A—FEDERAL LAND BANKS

§ 2011. Establishment; title; branches

The Federal land banks established pursuant to section 4 of the Federal Farm Loan Act, as amended, shall continue as federally chartered instrumentalities of the United States. Their charters or organization certificates may be modified from time to time by the Farm Credit Administration, not inconsistent with the provisions of this subchapter, as may be necessary or expedient to implement this chapter. Unless an existing Federal land bank is merged with one or more other such banks under section 2181 of this title, there shall be a Federal land bank in each farm credit district. It may include in its title the name of the city in which it is located or other geographical designation. When authorized by the Farm Credit Administration, it may establish such branches or other offices as may be appropriate for the effective operation of its business.

(Pub. L. 92-181, title I, § 1.3, Dec. 10, 1971, 85 Stat. 583.)

REFERENCES IN TEXT

Section 4 of the Federal Farm Loan Act, as amended, referred to in text, was classified to section 672 et seq. of this title, prior to its repeal by section 5.26 of Pub. L. 92-181, which enacted this chapter.

§ 2012. Corporate existence; general corporate powers

Each Federal land bank shall be a body corporate and, subject to supervision by the Farm Credit Administration, shall have power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this chapter or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all the usual incidents of ownership of real and personal property necessary or convenient to its business.

(6) Make loans and commitments for credit, accept advance payments, and provide services and other assistance as authorized in this chapter, and charge fees therefor.

(7) Operate under the direction of its board of directors.

(8) Elect by its board of directors a president, any vice president, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, including joint employees as provided in this chapter, define their duties, and require surety bonds or make other provision against losses occasioned by employees.

(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, and agents are elected or provided for; its property acquired, held, and transferred; its loans and appraisals made; its general business conducted; and the privileges granted it by law exercised and enjoyed.

(10) Borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, terms, conditions, and rates of interest as may be determined.

(11) Accept deposits of securities or of current funds from its Federal land bank associations and pay interest on such funds.

(12) Participate with one or more other Federal land banks in loans under this subchapter on such terms as may be agreed upon among such banks.

(13) Approve the salary scale of the officers and employees of the Federal land bank associations and the appointment and compensation of the chief executive officer thereof and supervise the exercise by such associations of the functions vested in or delegated to them.

(14) Deposit its securities and its current funds with any member bank of the Federal Reserve System and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

(15) Buy and sell obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency, and make such other investments as may be authorized by the Farm Credit Administration.

(16) Conduct studies and make and adopt standards for lending.

(17) Delegate to Federal land bank associations such functions vested in or delegated to the bank as it may determine.

(18) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

(19) Perform any function delegated to it by the Farm Credit Administration.

(20) Require Federal land bank associations to endorse notes and other obligations of its members to the bank.

(21) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the bank.

(Pub. L. 92-181, title I, § 1.4, Dec. 10, 1971, 85 Stat. 584.)

§ 2013. Land bank stock

(a) Par value; classes

The capital stock of each Federal land bank shall be divided into shares of par value of $5 each, and may be of such classes as its board of directors may determine with the approval of the Farm Credit Administration.

(b) Voting stock

Voting stock of each bank shall be held only by the Federal land bank associations and direct borrowers and borrowers through agents who are farmers or ranchers, which stock shall not be transferred, pledged, or hypotheticated[1] except as authorized pursuant to this chapter.

(c) Increases in stock

The board of each bank shall from time to time authorize the issue or increase of its capital stock necessary to permit the issuance of additional shares to the Federal land bank associations so that members of such associations purchasing stock or participation certificates therein may be eligible for loans from the bank.

(d) Nonvoting stock

Nonvoting stock may be issued to the Governor of the Farm Credit Administration, and may also be issued to Federal land bank associations in amounts which will permit the bank to extend financial assistance to eligible persons other than farmers or ranchers. Participation certificates with a face value of $5 each may be issued in lieu of nonvoting stock when the bylaws of the bank so provide.

(e) Dividends

Dividends shall not be payable on any stock held by the Governor of the Farm Credit Administration. Non-cumulative dividends may be payable on other stock and participation certificates of the bank. The rate of dividends may be different between different classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders

[1] So in original. Probably should read "hypothecated".

thereof to the capital or earnings of the bank by such classes and issues, but otherwise dividends shall be without preference.

(Pub. L. 92-181, title I, § 1.5, Dec. 10, 1971, 85 Stat. 585.)

§ 2014. Real estate mortgage loans

The Federal land banks are authorized to make long-term real estate mortgage loans in rural areas, as defined by the Farm Credit Administration, and continuing commitments to make such loans under specified circumstances, or extend other financial assistance of a similar nature to eligible borrowers, for a term of not less than five nor more than forty years.

(Pub. L. 92-181, title I, § 1.6, Dec. 10, 1971, 85 Stat. 585.)

§ 2015. Interest rates and other charges

Loans made by a Federal land bank shall bear interest at a rate or rates, and on such terms and conditions, as may be determined by the board of directors of the bank from time to time, with the approval of the Farm Credit Administration. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable costs on a sound business basis taking into account the cost of money to the bank, necessary reserve and expenses of the banks and Federal land bank associations, and providing services to stockholders and members. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

(Pub. L. 92-181, title I, § 1.7, Dec. 10, 1971, 85 Stat. 585.)

§ 2016. Eligibility

The services authorized in this subchapter may be made available to persons who are or become stockholders or members in the Federal land bank associations and are (1) bona fide farmers and ranchers, (2) persons furnishing to farmers and ranches farm-related services directly related to their on-farm operating needs, or (3) owners of rural homes.

(Pub. L. 92-181, title I, § 1.8, Dec. 10, 1971, 85 Stat. 586.)

§ 2017. Security

Loans shall not exceed 85 per centum of the appraised value of the real estate security, and shall be secured by first liens on interest in real estate of such classes as may be approved by the Farm Credit Administration. The value of security shall be determined by appraisal under appraisal standards prescribed by the bank and approved by the Farm Credit Administration, to adequately secure the loan. However, additional security may be required to supplement real estate security, and credit factors other than the ratio between the amount of the loan and the security value shall be given due consideration.

(Pub. L. 92-181, title I, § 1.9, Dec. 10, 1971, 85 Stat. 586.)

§ 2018. Purposes

Loans made by the Federal land banks to farmers and ranchers may be for any agricultural purpose and other credit needs of the applicant. Loans may also be made to rural residents for rural housing financing under regulations of the Farm Credit Administration. Rural housing financed under this subchapter shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, planned or recommended for the rural area where it is located: *Provided, however,* That a Federal land bank may not at any one time have a total of loans outstanding for such rural housing to persons other than farmers or ranchers in amounts exceeding 15 per centum of the total of all loans outstanding in such bank: *Provided further,* That for rural housing purposes under this section the term "rural areas" shall not be defined to include any city or village having a population in excess of 2,500 inhabitants. Loans to persons furnishing farm-related services to farmers and ranchers directly related to their on-farm operating needs may be made for the necessary capital structures and equipment and initial working capital for such services. The banks may own and lease, or lease with option to purchase, to persons eligible for assistance under this subchapter, facilities needed in the operations of such persons.

(Pub. L. 92-181, title I, § 1.10, Dec. 10, 1971, 85 Stat. 586.)

§ 2019. Services related to borrowers' operations

The Federal land banks may provide technical assistance to borrowers, members, and applicants and may make available to them at their option such financial related services appropriate to their on-farm operations as determined to be feasible by the board of directors of each district bank, under regulations of the Farm Credit Administration.

(Pub. L. 92-181, title I, § 1.11, Dec. 10, 1971, 85 Stat. 586.)

§ 2020. Loans through associations or agents

The Federal land banks shall, except as otherwise herein provided, make loans through a Federal land bank association serving the territory in which the real estate offered by the applicant is located. If there is no active association chartered for the territory where the real estate is located, or if the association has been declared insolvent, the bank may make the loan through another such association, directly, or through such bank or trust company or savings or other financial institution as it may designate. When the loan is not made through a Federal land bank association, the applicant shall purchase stock in the bank in an amount not less than $5 nor more than $10 for each $100 of the loan and the loan shall be made on such terms and conditions as the bank shall prescribe.

(Pub. L. 92-181, title I, § 1.12, Dec. 10, 1971, 85 Stat. 586.)

CODIFICATION

Designation "(a)" preceding the text of this section in the original has been omitted in view of the fact that section has no subsec. (b).

PART B—FEDERAL LAND BANK ASSOCIATIONS

§ 2031. Organizations; articles; charters; powers of the Governor

Each Federal land bank association chartered under section 7 of the Federal Farm Loan Act, as amended, shall continue as a federally chartered instrumentality of the United States. A Federal land bank association may be organized by any group of ten or more persons desiring to borrow money from a Federal land bank, including persons to whom the Federal land bank has made a loan directly or through an agent and has taken as security real estate located in the territory proposed to be served by the association. The articles of association shall describe the territory within which the association proposes to carry on its operations. Proposed articles shall be forwarded to the Federal land bank for the district, accompanied by an agreement to subscribe on behalf of the association for stock of the land bank equal to not less than $5 nor more than $10 per $100 of the amount of the aggregate loans desired or held by the association members. Such stock may be paid for by surrendering for cancellation stock in the bank held by a borrower and the issuance of an equivalent amount of stock to such borrower in the association. The articles shall be accompanied by a statement signed by each of the members of the proposed association establishing his eligibility for, and that he has or desires a Federal land bank loan; that the real estate with respect to which he desires a loan is not being served by another Federal land bank association; and that he is or will become a stockholder in the proposed association. A copy of the articles of association shall be forwarded to the Governor of the Farm Credit Administration with the recommendations of the bank concerning the need for the proposed association in order to adequately serve the credit needs of eligible persons in the proposed territory and a statement as to whether or not the territory includes any territory described in the charter of another Federal land bank association. The Governor for good cause shown may deny the charter applied for. Upon the approval of the proposed articles by the Governor and the issuance of such charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States. The Governor shall have power, in the terms of the charter, under rules and regulations prescribed by him or by approving bylaws of the association, to provide for the organization of the association, the initial amount of stock of such association, the territory within which its operations may be carried on and to direct at any time changes in the charter of such association as he finds necessary in accomplishing the purposes of this chapter.

(Pub. L. 92-181, title I, § 1.13, Dec. 10, 1971, 85 Stat. 587.)

REFERENCES IN TEXT

Section 7 of the Federal Farm Loan Act, as amended, referred to in text, was classified to section 711 et seq. of this title, prior to its repeal by section 5.26 of Pub. L. 92-181, which enacted this chapter.

§ 2032. Board of directors

Each Federal land bank association shall elect from its voting shareholders a board of directors of such number, for such terms, in such manner, and with such qualifications as may be required by its bylaws.

(Pub. L. 92-181, title I, § 1.14, Dec. 10, 1971, 85 Stat. 587.)

§ 2033. General corporate powers

Each Federal land bank association shall be a body corporate and, subject to supervision of the Federal land bank for the district and of the Farm Credit Administration, shall have the power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this chapter or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real estate and personal property necessary or convenient to its business.

(6) Operate under the direction of its board of directors in accordance with this chapter.

(7) Elect by its board of directors a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this chapter; define their duties; and require surety bonds or make other provision against losses occasioned by employees. No director shall, within one year after the date when he ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which he served.

(8) Prescribe by its board of directors, its bylaws, not inconsistent with law, providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers and employees elected or provided for; its property acquired, held, and transferred; its general business conducted; and privileges granted it by law exercised and enjoyed.

(9) Accept applications for Federal land bank loans and receive from such bank and disburse to the borrowers the proceeds of such loans.

(10) Subscribe to stock of the Federal land bank of the district.

(11) Elect by its board of directors a loan committee with power to elect applicants for membership in the association and recommend loans to the Federal land bank, or with the approval of the Federal land bank, delegate the election of applicants for membership and the approval of loans within specified limits to other committees or to authorized employees of the association.

(12) Upon agreement with the bank, take such additional actions with respect to applications and loans and perform such functions as are vested by law in or delegated to the Federal

land banks as may be agreed to or delegated to the association.

(13) Endorse and shall[1] become liable to the bank on loans it makes to association members.

(14) Receive such compensation and deduct such sums from loan proceeds with respect to each loan as may be agreed between the association and the bank and may[2] make such other charges for services as may be approved by the bank.

(15) Provide technical assistance to members, borrowers, applicants, and other eligible persons and make available to them, at their option, such financial related services appropriate to their operations as it determines, with Federal land bank approval, are feasible, under regulations of the Farm Credit Administration.

(16) Borrow money from the bank and, with the approval of such bank, borrow from and issue its notes or other obligations to any commercial bank or other financial institutions.

(17) Buy and sell obligations of or insured by the United States or any agency thereof or of any banks of the Farm Credit System.

(18) Invest its funds in such obligations as may be authorized in regulations of the Farm Credit Administration and approved by the bank and deposit its securities and current funds with any member bank of the Federal Reserve System, with the Federal land bank, or with any bank insured by the Federal Deposit Insurance Corporation, and pay fees therefor and receive interest thereon as may be agreed.

(19) Perform such other function delegated it by the Federal land bank of the district.

(20) Exercise by its board of directors or authorized officers or agents all such incidental powers as may be necessary or expedient in the conduct of its business.

(Pub. L. 92-181, title I, § 1.15, Dec. 10, 1971, 85 Stat. 587.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2202 of this title.

§ 2034. Association stock; value of shares; voting

(a) The shares of stock in each Federal land bank association shall have a par value of $5 each. No person but borrowers from the bank shall become members and stockholders of the association. If an application for membership is approved and if the applied-for loan is granted, the member of the association shall subscribe to stock in the association in an amount not less than 5 per centum nor more than 10 per centum of the face amount of the loan as determined by the bank. Stock shall be paid for in cash by the time the loan is closed. The association shall then purchase a similar amount of stock in the land bank. Stock shall be retired and paid at fair book value not to exceed par, as determined by the association, upon the full repayment of the loan and if the loan is in default may be canceled for application on the loan, or under other circumstances, for other disposition, when approved by the bank. The aggregate capital stock of each association shall be increased from time to time as necessary to permit the securing of requested loans from the bank for the association's members.

(b) The stock issued by an association may be voting stock or nonvoting stock of such classes as the association determines with the approval of the bank under regulations prescribed by the Farm Credit Administration. Each holder of voting stock shall be entitled to only one vote, and no more, in the election of directors and in deciding questions at meetings of stockholders. Participation certificates may be issued in lieu of nonvoting stock when the bylaws of the association so provide.

(Pub. L. 92-181, title I, § 1.16, Dec. 10, 1971, 85 Stat. 589.)

[1] So in original. Probably should read "Endorse and become liable".

[2] So in original. Probably should read "and make such other charges".

PART C—PROVISIONS APPLICABLE TO FEDERAL LAND BANKS AND FEDERAL LAND BANK ASSOCIATIONS

§ 2051. Land bank reserves; dividends

(a) Each Federal land bank shall, at the end of each fiscal year, carry to reserve account a sum of not less than 50 per centum of its net earnings for the year until said reserve account shall be equal at the end of such year, after restoring any impairment thereof, to the outstanding capital stock and participation certificates of the bank. Thereafter, a sum equal to 10 per centum of the year's net earnings shall be added to the reserve account until the account shall be equal to 150 per centum of the outstanding capital stock and participation certificates of the bank. Any amounts added to the reserve account in exess[1] of 150 per centum of the outstanding capital stock and participation certificates may be withdrawn from such reserves with the approval of the Farm Credit Administration.

(b) Any bank may declare a dividend or dividends out of the whole or any part of net earnings which remain after (1) the maintenance of the reserve as required in subsection (a) hereof, (2) the payment of the franchise tax as required by section 2151 of this title for any year in which any stock in the bank is held by the Governor of the Farm Credit Administration, and (3) with approval of the Farm Credit Administration.

(Pub. L. 92-181, title I, § 1.17, Dec. 10, 1971, 85 Stat. 589.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2151 of this title.

§ 2052. Association reserves; dividends

(a) Each Federal land bank association shall, out of its net earnings at the end of each fiscal year, carry to reserve account a sum not less than 10 per centum of such earnings until the reserve account shall equal 25 per centum of the outstanding capital stock and participation certificates of such association after restoring any impairment thereof. Thereafter, 5 per centum of the net earnings for the year shall be added to such reserve account until it shall equal 50 per centum of the outstanding capital stock and participation certificates of the asso-

[1] So in original. Probably should read "excess".

ciation. Any amounts in the reserve account in excess of 50 per centum of the outstanding capital stock and participation certificates may be withdrawn with the approval of the Federal land bank.

(b) Any association may declare a dividend or dividends out of the whole or any part of its net earnings which remain after (1) maintenance of the reserve required in subsection (a) hereof and (2) bank approval.

(c) Whenever any association is liquidated, a sum equal to its reserve account as required in this chapter shall be paid and become the property of the bank in which such association is a shareholder.

(Pub. L. 92-181, title I, § 1.18, Dec. 10, 1971, 85 Stat. 589.)

§ 2053. Agreements for sharing gains or losses

Each Federal land bank may enter into agreements with Federal land bank associations in its district for sharing the gain or losses on loans or on security held therefor or acquired in liquidation thereof, and associations are authorized to enter into any such agreements and also, subject to bank approval, agreements with other associations in the district for sharing the risk of loss on loans endorsed by each such association.

(Pub. L. 92-181, title I, § 1.19, Dec. 10, 1971, 85 Stat. 590.)

§ 2054. Liens on stock

Each Federal land bank and each Federal land bank association shall have a first lien on the stock and participation certificates it issues, except on stock held by the Governor of the Farm Credit Administration, for the payment of any liability of the stockholder to the association or to the bank, or to both of them.

(Pub. L. 92-181, title I, § 1.20, Dec. 10, 1971, 85 Stat. 590.)

§ 2055. Taxation

Every Federal land bank and every Federal land bank association and the capital, reserves, and surplus thereof, and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation, except taxes on real estate held by a Federal land bank or a Federal land bank association to the same extent, according to its value, as other similar property held by other persons is taxed. The mortgages held by the Federal land banks and the notes, bonds, debentures and other obligations issued by the banks or associations shall be deemed and held to be instrumentalities of the Government of the United States and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).

(Pub. L. 92-181, title I, § 1.21, Dec. 10, 1971, 85 Stat. 590.)

References in Text

The Public Debt Act of 1941 (31 U.S.C. 742(a)), referred to in text, is act Feb. 19, 1941, ch. 7, 55 Stat. 7. For classification of this Act to the Code, see Tables volume. 31 U.S.C. 742(a) probably refers to section 742a of Title 31, Money and Finance.

SUBCHAPTER II—FEDERAL INTERMEDIATE CREDIT BANKS AND PRODUCTION CREDIT ASSOCIATIONS

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 2156, 2181 of this title.

Part A—Federal Intermediate Credit Banks

§ 2071. Establishment; branches

The Federal intermediate credit banks established pursuant to section 201(a) of the Federal Farm Loan Act, as amended, shall continue as federally chartered instrumentalities of the United States. Their charters or organization certificates may be modified from time to time by the Farm Credit Administration not inconsistent with the provisions of this subchapter as may be necessary or expedient to implement this chapter. Unless an existing Federal intermediate credit bank is merged with one or more other such banks under section 2181 of this title, there shall be a Federal intermediate credit bank in each farm credit district. It may include in its title the name of the city in which it is located or other geographical designation. When authorized by the Farm Credit Administration, it may establish such branches or other offices as may be appropriate for the effective operation of its business.

(Pub. L. 92-181, title II, § 2.0, Dec. 10, 1971, 85 Stat. 590.)

References in Text

Section 201(a) of the Federal Farm Loan Act, as amended, referred to in text, was classified to section 1021 et seq. of this title, prior to its repeal by section 5.26 of Pub. L. 92-181, which enacted this chapter.

§ 2072. Corporate existence; general corporate powers

Each Federal intermediate credit bank shall be a body corporate and, subject to supervision of the Farm Credit Administration, shall have power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this chapter or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all of the incidents of ownership of real and personal property necessary or convenient to its business.

(6) Make and discount loans and commitments for credit, and provide services and other assistance as authorized in this chapter, and charge fees therefor.

(7) Operate under the direction of its board of directors.

(8) Elect by its board of directors a president, any vice president, a secretary, and a treasurer, and provide for such other officers, employees, and agents as may be necessary, including joint employees as provided in this chapter; define their duties and require surety bonds or make other provision against losses occasioned by employees.

(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, and agents elected or provided for; its property acquired, held, and transferred; its loans and discounts made; its general business conducted; and the privileges granted it by law exercised and enjoyed.

(10) Borrow money and issue notes, bonds, debentures, or other obligations individually, or in concert with one or more other banks of the System, of such character, and such terms, conditions, and rates of interest as may be determined.

(11) Purchase nonvoting stock in or pay in surplus to, and accept deposits of securities or of current funds from production credit associations holding its shares and pay interest upon such funds.

(12) Deposit its securities and its current funds with any member bank of the Federal Reserve System, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

(13) Buy and sell obligations of or insured by the United States or any agency thereof, or securities backed by the full faith and credit of any such agency and make such other investments as may be authorized by the Farm Credit Administration.

(14) Delegate to the production credit associations such functions vested in or delegated to the intermediate credit bank as it may determine.

(15) Approve the salary scale of the officers and employees of the association and the appointment and compensation of the chief executive officer thereof and supervise the exercise by the production credit associations of the functions vested in or delegated to them.

(16) Amend and modify loan contracts, documents, payment schedules, and release, subordinate, or substitute security for any of them.

(17) Conduct studies and make and adopt standards for lending.

(18) Enter into loss sharing agreements with other Federal intermediate credit banks and production credit associations.

(19) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the bank.

(20) Participate with one or more other Federal intermediate credit banks or production credit associations in the district, in loans under this subchapter on such terms as may be agreed upon among such banks and associations.

(21) Perform any function delegated to it by the Farm Credit Administration.

(Pub. L. 92-181, title II, § 2.1, Dec. 10, 1971, 85 Stat. 591.)

§ 2073. Federal intermediate credit bank stock

(a) Value; classes

The capital stock of each Federal intermediate credit bank shall be divided into shares of par value of $5 each and may be of such classes as its board of directors may determine with the approval of the Farm Credit Administration.

(b) Voting stock

Voting stock of each bank shall be held only by the production credit associations which stock shall not be transferred, pledged, or hypothecated except as provided in this subchapter or as authorized under regulations of the Farm Credit Administration.

(c) Increases in stock

The board of each bank shall from time to time increase its capital stock to permit the issuance of additional shares to production credit associations in such amounts as shall be determined by the board.

(d) Nonvoting stock

Nonvoting stock may be issued to the Governor of the Farm Credit Administration. Nonvoting stock may also be issued to production credit associations in such amounts as will permit the association to extend financial assistance to eligible persons other than farmers, ranchers, and producers or harvesters of aquatic products. Participation certificates, with a face value of $5, may be issued in lieu of such nonvoting stock when the bylaws of the bank so provide.

(e) Participation certificates

Participation certificates also may be issued by a bank to financing institutions other than production credit associations which are eligible to borrow from or discount eligible paper with the bank.

(f) Dividends

Dividends shall not be payable on any stock held by the Governor of the Farm Credit Administration other than the tax imposed by section 2151(c) of this title but noncumulative dividends may be payable on other capital and participation certificates in an amount not to exceed a per centum permitted under regulations of the Farm Credit Administration, in any year as determined by the board of directors. Such dividends may be in the form of stock and participation certificates or, when the Governor of the Farm Credit Administration holds no stock in the bank, in cash. The rate of dividends may be different between different classes and issues of stock and participation certificates on the basis of the comparative contributions of the holders thereof to the capital or earnings of the bank by such classes and issues, but otherwise dividends shall be without preference.

(g) Subscription of stock; allotment; proportion; additional participation certificates; retirement of stock and participation certificates

Each Federal intermediate credit bank, with the approval of the Farm Credit Administration, may determine the amount of the initial

or additional stock in the bank to be subscribed for by the production credit associations in the farm credit district served by the bank in order to provide capital to meet the credit needs of the bank. The amount so determined shall be allotted among the associations in the district upon such basis that, as nearly as may be practicable, the sum of the stock already owned and the additional amount to be subscribed for by each association will be in the same proportion to the total amount of stock already owned and to be subscribed for by all of the associations in the district that the average indebtedness (loans and discounts) of each association to the bank during the immediately preceding three fiscal years is of the average of such indebtedness of all associations to the bank during such three-year period. Each association shall subscribe for stock in the bank in the amount so allotted to it. Such subscriptions shall be subject to call and payment therefor shall be made at such times and in such amounts as may be determined by the bank.

Whenever the relative amounts of stock in a bank owned by the associations differ substantially from the proportion indicated in the preceding paragraph, and additional subscriptions to stock through which such proportion could be reestablished are not contemplated, the bank, with approval of the Farm Credit Administration, may direct either separately or in combination such transfers, retirements, and reissuance of outstanding stock among the associations as will reestablish the aforesaid proportion as nearly as may be practicable. Outstanding stock which is retired for this purpose, except as otherwise approved by the Farm Credit Administration, shall be the oldest stock held by the association and the bank shall pay the association therefor at the fair book value thereof not exceeding par.

The banks may issue further amounts of participation certificates with the same rights, privileges, and conditions, for purchase by institutions other than production credit associations which are entitled to receive participation certificates from the bank as patronage refunds. Participation certificates held by other financing institutions may be transferred to other such institutions upon request of, or with the approval of the bank.

After all stock held by the Governor of the Farm Credit Administration has been retired, the bank may retire other stock at par and participation certificates at face amount under regulations of the Farm Credit Administration. Such other stock and participation certificates shall be retired without preference and in such manner that, unless otherwise approved by Farm Credit Administration, the oldest outstanding stock or certificates at any given time will be retired first. In case of liquidation or dissolution of any production credit association or other financing institution, the stock or participation certificates of the bank owned by such association or institution may be retired by the bank at the fair book value thereof, not exceeding par or face amount, as the case may be.

(h) Liens on stock and participation certificates

Except with regard to stock held by the Governor, each Federal intermediate credit bank shall have a first lien on all stock and participation certificates it issues and on all allocated reserves and other equities for any indebtedness of the holder of such capital investments to the bank.

(i) Default

In any case where the debt of a production credit association or other financing institution is in default, the bank may retire all or part of the capital investments in the bank held by such debtor at the fair book value thereof, not exceeding par or face amount as the case may be, in total or partial liquidation of the debt.

(Pub. L. 92-181, title II, § 2.2, Dec. 10, 1971, 85 Stat. 592.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2077 of this title.

§ 2074. Loans; discounts; participation; leasing

(a) Financial transactions with associations; collateral; equipment leases

The Federal intermediate credit banks are authorized to make loans and extend other similar financial assistance to and discount for, or purchase from, any production credit association with its endorsement or guaranty, any note, draft, or other obligation presented by such association, and to participate with such association and one or more intermediate credit banks in the making of loans to eligible borrowers, all the foregoing to be secured by such collateral, if any, as may be required in regulations of the Farm Credit Administration. The banks may own and lease or lease with option to purchase, to persons eligible for assistance under this subchapter, equipment needed in the operations of such persons.

(b) Additional financial transactions; collateral

The Federal intermediate credit banks are authorized to discount for, or purchase from [1] any national bank, State bank, trust company, agricultural credit corporation, incorporated livestock loan company, savings institution, credit union, and any association of agricultural producers engaged in the making of loans to farmers and ranchers, with its endorsement or guaranty, any note, draft, or other obligation the proceeds of which have been advanced or used in the first instance for any agricultural purpose, including the breeding, raising, fattening, or marketing of livestock; and to make loans and advances to any such financing institution secured by such collateral as may be approved by the Farm Credit Administration: *Provided,* That no such loan or advance shall be made upon the security of collateral other than notes or other such obligations of farmers and ranchers eligible for discount or purchase under the provisions of this section, unless such loan or advance is made to enable the financing institution to make or carry loans for any agricultural purpose.

(c) Limitation on aggregate liabilities

No paper shall be purchased from or discounted for any national bank, State bank, trust company or savings institution under subsection (b) of this section if the amount of such

[1] So in original. Probably should be a comma after "purchase from".

paper added to the aggregate liabilities of such national bank, State bank, trust company or savings institution, whether direct or contingent (other than bona fide deposit liabilities), exceeds the lower of the amount of such liabilities permitted under the laws of the jurisdiction creating the same, or twice the paid-in and unimpaired capital and surplus of such national bank, State bank, trust company, or savings institution. No paper shall under this section be purchased from or discounted for any other corporation engaged in making loans for agricultural purposes including the raising, breeding, fattening, or marketing of livestock, if the amount of such paper added to the aggregate liabilities of such corporation exceeds the lower of the amount of such liabilities permitted under the laws of the jurisdiction creating the same, or ten times the paid-in and unimpaired capital and surplus of such corporation. It shall be unlawful for any national bank which is indebted to any Federal intermediate credit bank, upon paper discounted or purchased under subsection (b) of this section, to incur any additional indebtedness, if by virtue of such additional indebtedness its aggregate liabilities direct or contingent, will exceed the limitations herein contained.

(Pub. L. 92-181, title II, § 2.3, Dec. 10, 1971, 85 Stat. 593.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2075 of this title.

§ 2075. Terms

Loans, advances, or discounts made under section 2074 of this title shall be repayable in not more than seven years from the time they are made or discounted by the Federal intermediate credit bank, and shall bear such rate or rates of interest or discount as the board of directors of the bank shall from time to time determine with the approval of the Farm Credit Administration, but the rates charged financing institutions other than production credit associations shall be the same as those charged production credit associations. In setting the rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers, at the lowest reasonable costs on a sound business basis taking into account the cost of money to the bank, necessary reserves and expenses of the bank and production credit associations, and providing services to borrowers from the bank and associations. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank. No obligation tendered for discount by a financial institution, without the approval of the Farm Credit Administration, shall be eligible for discount upon which the original borrower has been charged a rate of interest exceeding by more than 1½ per centum per annum the discount rate of the bank.

(Pub. L. 92-181, title II, § 2.4, Dec. 10, 1971, 85 Stat. 594.)

§ 2076. Services related to borrowers' operations

The Federal intermediate credit banks may provide technical assistance to borrowers, members, and applicants from the banks and production credit associations, including persons obligated on paper discounted by the bank, and may make available to them at their option such financial related services appropriate to their on-farm operations as determined to be feasible by the board of directors of each district bank, under regulations of the Farm Credit Administration.

(Pub. L. 92-181, title II, § 2.5, Dec. 10, 1971, 85 Stat. 595.)

§ 2077. Net earnings

(a) Determination; annual application; surplus account; absorption of net loss

If, at the end of a fiscal year a Federal intermediate credit bank shall have stock outstanding held by the Governor of the Farm Credit Administration, such bank shall determine the amount of its net earnings after paying or providing for all operating expenses (including reasonable valuation reserves and losses in excess of any such applicable reserves) and shall apply such net earnings as follows: (1) to the restoration of the impairment, if any, of capital stock and participation certificates, as determined by its board of directors; (2) to the restoration of the amount of the impairment, if any, of the surplus account or allocated reserve account established by this subsection, as determined by its board of directors; (3) 25 per centum of any remaining net earnings shall be used to create and maintain an allocated reserve account; (4) a franchise tax shall be paid to the United States, as provided in section 2151 of this title; (5) reasonable unallocated contingency reserve account may be established and maintained; (6) dividends on stock held by production credit associations and on participation certificates may be declared as provided in section 2073(f) of this title; and (7) any remaining net earnings shall be distributed as patronage refunds as provided in subsection (b) of this section.

Amounts applied to reserve account as provided in (3) above, either heretofore or hereafter, shall be allocated on the same patronage basis and have the same tax treatment as is provided in subsection (b) of this section for patronage refunds. At the end of any fiscal year that the allocated reserve account of any bank exceeds 25 per centum of its outstanding stock and participation certificates, such excess may be distributed, oldest allocations first, in stock to production credit associations and participation certificates issued as of the date of the allocations.

If and when the relative amounts of stock in a Federal intermediate credit bank owned by the production credit associations are adjusted to reestablish the proportion of such stock owned by each association, as provided in the first or second paragraphs of section 2073(g) of this title, amounts in the reserve account that are allocated to production credit associations may be adjusted in the same manner, so far as practicable, to reestablish the holdings of the production credit associations in the allocated

legal reserve accounts into substantially the same proportion as are their holdings of stock.

No part of the surplus account established by a Federal intermediate credit bank on January 1, 1957, consisting of its earned surplus account, its reserve for contingencies, and the surplus of the production credit corporation transferred to the bank, shall be distributed as patronage refunds or as dividends. In the event of a net loss in any fiscal year after providing for all operating expenses (including reasonable valuation reserves and losses in excess of any such applicable reserves), such loss shall be absorbed by: first, charges to the unallocated reserve account; second, impairment of the allocated reserve account; third, impairment of the surplus other than that transferred from the production credit corporation of the district; fourth, impairment of surplus transferred from the production credit corporation of the district; fifth, impairment of stock and participation certificates held by production credit associations and participation certificates held by other financing institutions; and sixth, impairment of nonvoting stock.

(b) Patronage refunds when bank has outstanding capital stock held by the Governor

If at the end of a fiscal year a Federal intermediate credit bank shall have outstanding capital stock held by the Governor of the Farm Credit Administration, patronage refunds declared for that year shall be paid in stock to production credit associations and in participation certificates to other financing institutions borrowing from or discounting with the bank during the fiscal year for which such refunds are declared. The recipients of such patronage refunds shall not be subject to Federal income taxes thereon. All patronage refunds shall be paid in the proportion that the amount of interest earned by the bank on its loans to and discounts for each production credit association or other financing institution bears to the total interest earned by the bank on all such loans and discounts outstanding during the fiscal year. Each participation certificate issued in payment of patronage refunds shall be in multiplies of $5 and shall state on its face the rights, privileges, and conditions applicable thereto. Patronage refunds shall not be paid to any other Federal intermediate credit bank, or to any Federal land bank or bank for cooperatives.

(c) Patronage refunds when bank has no outstanding capital stock held by the Governor

If, at the end of a fiscal year a Federal intermediate credit bank shall have no outstanding capital stock held by the Governor of the Farm Credit Administration, the net earnings of such bank shall, under regulations prescribed by the Farm Credit Administration, continue to be distributed on a cooperative basis with an obligation to distribute patronage dividends and with provision for sound, adequate capitalization to meet changing financing needs of production credit associations, other financial institutions eligible to discount paper with the bank, and other eligible borrowers, and prudent corporate fiscal management, to the end that the current year's patrons carry their fair share of the capitalization, ultimate expenses, and reserves. Such regulations may provide for the application of less than 25 per centum of net earnings after payment of operating expenses to the restoration or maintenance of the allocated reserve account, additions to unallocated contingency reserve account of not to exceed such per centum of net earnings as may be approved by the Farm Credit Administration, and provide for allocations to portions not qualified under Title 26, the Internal Revenue Code, and the payment of patronage in stock, participation certificates, or in cash, as the board may determine. If during the fiscal year but not at the end thereof a bank shall have had outstanding capital stock held by the Governor of the Farm Credit Administration, provision will be made for the payment of the franchise tax required in section 2151 of this title.

(d) Lien on allocation of reserve account

Such allocations of reserve account shall be subject to a first lien as additional collateral for any indebtedness of the holders thereof to the bank and in any case where such indebtedness is in default may, but shall not be required to, be retired and canceled for application on such indebtedness, and, in case of liquidation or dissolution of a holder thereof, such reserve account allocations may be retired, all as is provided for stock and participation certificates in section 2073(g) of this title.

(Pub. L. 92-181, title II, § 2.6, Dec. 10, 1971, 85 Stat. 595.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2078, 2151 of this title.

§ 2078. Distribution of assets on liquidation

In the case of liquidation or dissolution of any Federal intermediate credit bank, after payment or retirement, as the case may be, first, of all liabilities; second, of all stock held by the Governor of the Farm Credit Administration at par; third, of all stock owned by production credit associations at par and all participation certificates at face amount; any remaining assets of the bank shall be distributed as provided in this subsection. Any of the surplus established pursuant to section 2077 of this title (excluding that transferred from the production credit corporation of the district) which the Farm Credit Administration determines was contributed by financing institutions other than the production credit associations discounting with or borrowing from the bank on January 1, 1957, shall be paid to such institutions, or their successors in interest as determined by Farm Credit Administration, and the remaining portion of such surplus (including that transferred from the production credit corporation of the district) shall be paid to the holders of voting and nonvoting stock pro rata. The contribution of each such financing institution under the preceding sentence shall be computed on the basis of a ratio of its patronage to the total patronage of the bank from the date of organization of the bank to January 1, 1957. The allocated reserve established pursuant to section 2077 of this title shall be paid to the production credit associations and other financing institutions to which such reserve is al-

located on the books of the bank. Any assets of the bank then remaining shall be distributed to the production credit associations and the holders of participation certificates pro rata.

(Pub. L. 92-181, title II, § 2.7, Dec. 10, 1971, 85 Stat. 597.)

§ 2079. Taxation

Every Federal intermediate credit bank and the capital, reserves, and surplus thereof and the income derived therefrom shall be exempt from Federal, State, municipal, and local taxation except taxes on real estate held by a Federal intermediate credit bank to the same extent, according to its value, as other similar property held by other persons is taxed. The obligations held by the Federal intermediate credit banks and the notes, bonds, debentures, and other obligations issued by the banks shall be deemed to be instrumentalities of the Government of the United States, and, as such, they and the income therefrom shall be exempt from all Federal, State, municipal, and local taxation, other than Federal income tax liability of the holder thereof under the Public Debt Act of 1941 (31 U.S.C. 742(a)).

(Pub. L. 92-181, title II, § 2.8, Dec. 10, 1971, 85 Stat. 597.)

References in Text

The Public Debt Act of 1941 (31 U.S.C. 742(a)), referred to in text, is act Feb. 19, 1941, ch. 7, 55 Stat. 7. For classification of this Act to the Code, see Tables volume. 31 U.S.C. 742(a) probably refers to section 742a of Title 31, Money and Finance.

Part B—Production Credit Associations

§ 2091. Organization and charters

Each production credit association chartered under section 20 of the Farm Credit Act of 1933, as amended, shall continue as a federally chartered instrumentality of the United States,[1] Production credit associations may be organized by ten or more farmers or ranchers or producers or harvesters of aquatic products desiring to borrow money under the provisions of this subchapter. The proposed articles of association shall be forwarded to the Federal intermediate credit bank for the district accompanied by an agreement to subscribe on behalf of the association for stock in the bank in such amounts as may be required by the bank. The articles shall specify in general terms the objects for which the association is formed, the powers to be exercised by it in carrying out the functions authorized by this part, and the territory it proposes to serve. The articles shall be signed by persons desiring to form such an association and shall be accompanied by a statement signed by each such person establishing eligibility to borrow from the association in which he will become a stockholder. A copy of the articles of association shall be forwarded to the Governor of the Farm Credit Administration with the recommendations of the bank concerning the need for such an association in order to adequately serve the credit needs of eligible persons in the proposed territory and whether that territory includes any area, described in the charter of another production credit association. The Governor for good cause shown may deny the charter. Upon approval of the proposed articles by the Governor and the issuance of a charter, the association shall become as of such date a federally chartered body corporate and an instrumentality of the United States. The Governor shall have the power, under rules and regulations prescribed by him or by prescribing in the terms of the charter or by approval of bylaws of the association, to provide for the organization of the association, the initial amount of stock of the association, the territory within which its operations may be carried on, and to direct at any time such changes in the charter as he finds necessary for the accomplishment of the purposes of this chapter.

(Pub. L. 92-181, title II, § 2.10, Dec. 10, 1971, 85 Stat. 597.)

References in Text

Section 20 of the Farm Credit Act of 1933, as amended, referred to in text, was classified to section 1131d of this title, prior to its repeal by section 5.26 of Pub. L. 92-181, which enacted this chapter.

§ 2092. Board of directors

Each production credit association shall elect from its voting members a board of directors of such number, for such terms, with such qualifications, and in such manner as may be required by its bylaws.

(Pub. L. 92-181, title II, § 2.11, Dec. 10, 1971, 85 Stat. 598.)

§ 2093. General corporate powers

Each production credit association shall be a body corporate and, subject to supervision by the Federal intermediate credit bank for the district and the Farm Credit Administration, shall have power to—

(1) Have succession until terminated in accordance with this chapter or any other Act of Congress.

(2) Adopt and use a corporate seal.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to its business.

(6) Operate under the direction of its board of directors in accordance with this chapter.

(7) Subscribe to stock of the bank.

(8) Purchase stock of the bank held by other production credit associations and stock of other production credit associations.

(9) Contribute to the capital of the bank or other production credit associations.

(10) Invest its funds as may be approved by the Federal intermediate credit bank under regulations of the Farm Credit Administration and deposit its current funds and securities with the Federal intermediate credit bank, a member bank of the Federal Reserve System, or any bank insured under the Federal Deposit Insurance Corporation, and may pay fees therefor and receive interest thereon as may be agreed.

[1] So in original. A period rather than a comma between "United States" and "Production credit" was probably intended.

(11) Buy and sell obligations of or insured by the United States or of any agency thereof or of any banks of the Farm Credit System.

(12) Borrow money from the Federal intermediate credit bank, and with the approval of such bank, borrow from and issue its notes or other obligations to any commercial bank or other financial institution.

(13) Make and participate in loans, accept advance payments, and provide services and other assistance as authorized in this subchapter and charge fees therefor.

(14) Endorse and become liable on loans discounted or pledged to the Federal intermediate credit bank.

(15) Enter into loss sharing agreements with the Federal intermediate credit bank and other production credit associations.

(16) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired, its officers and employees elected or provided for, its property acquired, held, and transferred, its general business conducted, and the privileges granted it by law exercised and enjoyed.

(17) Elect by its board of directors a manager or other chief executive officer, and provide for such other officers or employees as may be necessary, including joint employees as provided in this chapter, define their duties, and require surety bonds or make other provisions against losses occasioned by employees. No director shall, within one year after the date when he ceases to be a member of the board, be elected or designated a salaried employee of the association on the board of which he served.

(18) Elect by its board of directors a loan committee with power to approve applications for membership in the association and loans or participations or, with approval of the bank, delegate the approval of applications for membership and loans or participations within specified limits to other committees or to authorized officers and employees of the association.

(19) Perform any functions delegated to it by the bank or the Farm Credit Administration.

(20) Exercise by its board of directors or authorized officers or employees, all such incidental powers as may be necessary or expedient to carry on the business of the association.

(Pub. L. 92-181, title II, § 2.12, Dec. 10, 1971, 85 Stat. 598.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2202 of this title.

§ 2094. Stock and participation certificates

(a) Classes; rights; valuation

A production credit association may issue voting stock, nonvoting stock, preferred stock, participation certificates, and provide for an equity reserve. Holders of stock, participation certificates, and equity reserve shall have such rights, not inconsistent, with the provisions of this section, as are set forth in the bylaws of the association. Stock shall be divided into shares of $5 par value each, and participation certificates shall have a face value of $5 each.

(b) Voting stock

Voting stock may be purchased only by farmers and ranchers, or producers or harvesters of aquatic products, who are eligible to borrow from the association. Each holder of voting stock shall be entitled to no more than one vote except as otherwise provided in subsection (d) hereof. No voting stock or any interest therein or right to receive dividends thereon shall be transferred by act of the parties or by operations of law, except to another person eligible to hold voting stock, and then only as provided in the bylaws.

(c) Nonvoting stock

Nonvoting stock may be issued to the Governor of the Farm Credit Administration and to other investors.

(d) Preferred stock

Preferred stock, which shall be nonvoting, may be issued to the Governor and to other investors when authorized by a majority vote of the outstanding shares of voting stock, by a majority vote of the outstanding shares of the nonvoting stock, and by a majority vote of the outstanding shares of preferred stock, except that all stock held by the Governor shall be excluded from voting hereunder. For the purpose of this subsection only, the holders of such stock shall be entitled to one vote, in person or by written proxy, for each share of stock held. The authorization to issue preferred stock shall state the privileges, restrictions, limitations, dividend rights (either cumulative or noncumulative)[1] redemption rights, preferences, and other qualifications affecting said stock, and the total amount of the authorized issue to which it belongs.

(e) Participation certificates

Participation certificates may be issued to persons eligible to borrow from the association to whom voting stock is not to be issued.

(f) Requisite ownership of stock or participation certificates

Each borrower from the association shall be required to own at the time the loan is made voting stock or participation certificates as provided in the bylaws of the association, in an amount equal in fair book value (not exceeding par or face amount, as the case may be), as determined by the association, to $5 per $100 or fraction thereof of the amount of the loan. Such stock and participation certificates shall not be canceled or retired upon payment of the loan or otherwise except as may be provided in the bylaws. Notwithstanding any other provision of this section, for a loan in which an association participates with a commercial bank or other financial institution other than a Federal intermediate credit bank or another production credit association, the requirement that the borrower own stock or participation certificates shall apply only to the portion of the loan which is retained by the association.

(g) Convertibility

Voting stock shall, within two years after the holder ceases to be a borrower, be converted into nonvoting stock at the fair book value thereof, not exceeding par. Consistent with the

[1] So in original. Probably should be followed with a comma.

provisions of this part, and as provided in the bylaws of the association, each class of stock and participation certificates shall be convertible into any other class of stock (except preferred stock) and into participation certificates.

(h) Additional required purchases of stock or participation certificates

As a further means of providing capital, an association may, as provided in its bylaws, and with the approval of the bank, require borrowers to purchase stock or participation certificates in addition to that required in subsection (f) hereof, or invest in the equity reserve, in an aggregate amount not exceeding $5 per $100 or fraction thereof of the amount of the loan. Any portion of the amounts invested under this subsection which is no longer required for the purposes of the association may be returned to the owners thereof by revolving or retirement in accordance with its bylaws.

(i) Payment of dividends

Dividends shall be paid on preferred stock in accordance with the authorization of the stockholders to issue each stock. Dividends on stock, other than preferred stock, and on participation certificates may be paid by an association as provided in its bylaws at such rate or rates as are approved by the Federal intermediate credit bank in accordance with regulations of the Farm Credit Administration, and may be paid, upon such approval, even though the amount in the surplus accounts is less than the minimum aggregate amount prescribed by the bank as provided in section 2095 of this title.

(j) First liens

Except with regard to stock held by the Governor, each production credit association shall have a first lien on stock and participation certificates it issues, allocated surplus, and on investments in equity reserve, for any indebtedness of the holder of such capital investments and, in the case of equity reserve, for charges for association losses in excess of reserves and surplus.

(k) Default

In any case where the debt of a borrower is in default, the association may retire all or part of the capital investments in the association held by such debtor at the fair book value thereof, not exceeding par or face amount, as the case may be, in total or partial liquidation of the debt.

(Pub. L. 92-181, title II, § 2.13, Dec. 10, 1971, 85 Stat. 599.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred in to section 2151 of this title.

§ 2095. Application of earnings; restoration of capital impairment; surplus account

(a) Each production credit association at the end of each fiscal year shall apply the amount of its earnings for such year in excess of its operating expenses (including provision for valuation reserves against loan assets in an amount equal to one-half of 1 per centum of the loans outstanding at the end of the fiscal year to the extent that earnings in such year in excess of other operating expenses permit, until such reserves equal or exceed 3½ per centum of the loans outstanding at the end of the fiscal year, beyond which 3½ per centum further additions to such reserves are not required but may be made) first to the restoration of the impairment, if any, of capital; and second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Federal intermediate credit bank.

(b) When the bylaws of an association so provide, available net earnings at the end of any fiscal year may be distributed on a patronage basis in stock, participation certificates, or in cash, except that when the Governor holds any stock in an association the cash distribution shall be such percentage of the patronage refund as shall be determined under regulations of the Farm Credit Administration. Any part of the earnings of the fiscal year in excess of the operating expenses for such year held in the surplus account may be allocated to patrons on a patronage basis.

(Pub. L. 92-181, title II, § 2.14, Dec. 10, 1971, 85 Stat. 600.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2094, 2151 of this title.

§ 2096. Short and intermediate term loans; participation; other financial assistance; terms; conditions; interest; security

(a) Each production credit association, under rules and regulations prescribed by the board of directors of the Federal intermediate credit bank of the district and approved by the Farm Credit Administration, may make, guarantee, or participate with other lenders in short- and intermediate-term loans and other similar financial assistance to (1) bona fide farmers and ranchers and the producers or harvesters of aquatic products, for agricultural purposes and other requirements of such borrowers, (2) rural residents for housing financing in rural areas, under regulations of Farm Credit Administration, and (3) persons furnishing to farmers and ranchers farm-related services directly related to their on-farm operating needs. Rural housing financed under this subchapter shall be for single-family, moderate-priced dwellings and their appurtenances not inconsistent with the general quality and standards of housing existing in, planned or recommended for the rural area where it is located. The aggregate of such housing loans in an association to persons other than farmers or ranchers shall not exceed 15 per centum of the outstanding loans at the end of its preceding fiscal year except upon prior approval by the Federal intermediate credit bank of the district. The aggregate of such housing loans in any farm credit district shall not exceed 15 per centum of the outstanding loans of all associations in the district at the end of the preceding fiscal year. For rural housing purposes under this section the term "rural areas" shall not be defined to include any city or village having a population in excess of 2,500 inhabitants. Each association may own and lease, or lease with option to purchase, to stockholders of the association equipment needed in the operations of the stockholder.

(b) Loans authorized in subsection (a) hereof shall bear such rate or rates of interest as are determined under regulations prescribed by the board of the bank with the approval of the Farm Credit Administration, and shall be made upon such terms, conditions, and upon such security, if any, as shall be authorized in such regulations. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the association, necessary reserves and expenses of the association, and services provided to borrowers and members. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan in accordance with the rate or rates currently being charged by the association. Such regulations may require prior approval of the bank or of Farm Credit Administration on certain classes of loans; and may authorize a continuing commitment to a borrower of a line of credit.

(Pub. L. 92-181, title II, § 2.15, Dec. 10, 1971, 85 Stat. 601.)

§ 2097. Other services

Each production credit association may provide technical assistance to borrowers, applicants, and members and may make available to them at their option such financial related services appropriate to their on-farm operations as is determined feasible by the board of directors of each district bank, under regulations prescribed by the Farm Credit Administration.

(Pub. L. 92-181, title II, § 2.16, Dec. 10, 1971, 85 Stat. 602.)

§ 2098. Taxation

Each production credit association and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such associations shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority. Such associations, their property, their franchises, capital, reserves, surplus, and other funds, and their income shall be exempt from all taxation now or hereafter imposed by the United States or by any State, territorial, or local taxing authority; except that interest on the obligations of such associations shall be subject only to Federal income taxation in the hands of the holder thereof pursuant to the Public Debt Act of 1941 (31 U.S.C. 742(a)) and except that any real and tangible personal property of such associations shall be subject to Federal, State, territorial, and local taxation to the same extent as similar property is taxed. The exemption provided in the preceding sentence shall apply only for any year or part thereof in which stock in the production credit associations is held by the Governor of the Farm Credit Administration.

(Pub. L. 92-181, title II, § 2.17, Dec. 10, 1971, 85 Stat. 602.)

References in Text

The Public Debt Act of 1941 (31 U.S.C. 742(a)), referred to in text, is act Feb. 19, 1941, ch. 7, 55 Stat. 7. For classification of this Act to the Code, see Tables volume. 31 U.S.C. 742(a) probably refers to section 742a of Title 31, Money and Finance.

SUBCHAPTER III—BANKS FOR COOPERATIVES

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 2156, 2181 of this title.

§ 2121. Establishment; titles; branches

The banks for cooperatives established pursuant to sections 2 and 30 of the Farm Credit Act of 1933, as amended, shall continue as federally chartered instrumentalities of the United States. Their charters or organization certificates may be modified from time to time by the Farm Credit Administration, not inconsistent with the provisions of this subchapter, as may be necessary or expedient to implement this chapter. Unless an existing bank for cooperatives is merged with one or more other such banks under section 2181 of this title, there shall be a bank for cooperatives in each farm credit district and a Central Bank for Cooperatives. A bank for cooperatives may include in its title the name of the city in which it is located or other geographical designation. The Central Bank for Cooperatives may be located in such place as its board of directors may determine with the approval of the Farm Credit Administration. When authorized by the Farm Credit Administration each bank for cooperatives may establish such branches or other offices as may be appropriate for the effective operation of its business.

(Pub. L. 92-181, title III, § 3.0, Dec. 10, 1971, 85 Stat. 602.)

References in Text

Sections 2 and 30 of the Farm Credit Act of 1933, as amended, referred to in text, were classified to sections 1134 and 1134f, respectively, of this title prior to their repeal by section 5.26 of Pub. L. 92-181, which enacted this chapter.

§ 2122. Corporate existence; general corporate powers

Each bank for cooperatives shall be a body corporate and, subject to supervision by the Farm Credit Administration, shall have power to—

(1) Adopt and use a corporate seal.

(2) Have succession until dissolved under the provisions of this chapter or other Act of Congress.

(3) Make contracts.

(4) Sue and be sued.

(5) Acquire, hold, dispose, and otherwise exercise all of the usual incidents of ownership of real and personal property necessary or convenient to its business.

(6) Make loans and commitments for credit, provide services and other assistance as authorized in this chapter, and charge fees therefor.

(7) Operate under the direction of its board of directors.

(8) Elect by its board of directors a president, any vice presidents, a secretary, a treasurer, and provide for such other officers, employees,

and agents as may be necessary, including joint employees as provided in this chapter, define their duties and require surety bonds or make other provisions against losses occasioned by employees.

(9) Prescribe by its board of directors its bylaws not inconsistent with law providing for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; its officers, employees, or agents elected or provided for; its property acquired, held, and transferred; its loans made; its general business conducted; and the privileges granted it by law exercised and enjoyed.

(10) Borrow money and issue notes, bonds, debentures, or other obligations individually or in concert with one or more other banks of the System, of such character, and such terms, conditions, and rates of interest as may be determined.

(11) Participate in loans under this subchapter with one or more other banks for cooperatives and with commercial banks and other financial institutions upon such terms as may be agreed among them.

(12) Deposit its securities and its current funds with any member bank of the Federal Reserve System, and pay fees therefor and receive interest thereon as may be agreed. When designated for that purpose by the Secretary of the Treasury, it shall be a depository of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; may be employed as a fiscal agent of the Government, and shall perform all such reasonable duties as a depository of public money or financial agent of the Government as may be required of it. No Government funds deposited under the provisions of this subsection shall be invested in loans or bonds or other obligations of the bank.

(13) Buy and sell obligations of or insured by the United States or of any agency thereof, or securities backed by the full faith and credit of any such agency and make such other investments as may be authorized by the Farm Credit Administration.

(14) Conduct studies and adopt standards for lending.

(15) Amend and modify loan contracts, documents, and payment schedules, and release, subordinate, or substitute security for any of them.

(16) Perform any function delegated to it by the Farm Credit Administration.

(17) Exercise by its board of directors or authorized officers, employees, or agents all such incidental powers as may be necessary or expedient to carry on the business of the bank.

(Pub. L. 92-181, title III, § 3.1, Dec. 10, 1971, 85 Stat. 602.)

§ 2123. Board of directors

(a) In the case of a district bank for cooperatives, the board of directors shall be the farm credit district board and in the case of the Central Bank for Cooperatives shall be a separate board of not more than thirteen members, one from each farm credit district and one at large. One district director of the Central Bank Board shall be elected by each district farm credit board and the member at large shall be appointed by the Governor with the advice and consent of the Federal Farm Credit Board.

(b) For the purposes of this section the provisions of sections 2222(b) and (c), 2225, 2226, and 2227 of this title shall apply to and shall be the authority of the Central Bank for Cooperatives the same as though it were a district bank.

(Pub. L. 92-181, title III, § 3.2, Dec. 10, 1971, 85 Stat. 603.)

§ 2124. Stock of banks for cooperatives

(a) Amount

The Capital stock of each bank for cooperatives shall be in such amount as its board determines, with the approval of Farm Credit Administration, is required for the purpose of providing adequate capital to permit the bank to meet the credit needs of borrowers from the bank and such amounts may be increased or decreased from time to time in accordance with such needs.

(b) Value

The capital stock of each bank shall be divided into shares of par value of $100 each and may be of such classes as the board may determine with the approval of the Farm Credit Administration. Such stock may be issued in fractional shares.

(c) Eligible holders of voting stock

Voting stock may be issued or transferred to and held only by (i) cooperative associations eligible to borrow from the banks and (ii) other banks for cooperatives, and shall not be otherwise transferred, pledged, or hypothecated except as consented to by the issuing bank under regulations of the Farm Credit Administration.

(d) Entitlement to vote

Each holder of one or more shares of voting stock which is eligible to borrow from a bank for cooperatives shall be entitled only to one vote and only in the affairs of the bank in the district in which its principal office is located unless otherwise authorized by the Farm Credit Administration, except that if such holder has not been a borrower from the bank in which it holds such stock within a period of two years next preceding the date fixed by the Farm Credit Administration prior to the commencement of voting, it shall not be entitled to vote.

(e) Nonvoting investment stock

Nonvoting investment stock may be issued in such series and in such amounts as may be determined by the board and approved by the Farm Credit Administration and, except for stock held by the Governor, may be exchanged for voting stock or sold or transferred to any person subject to the approval of the issuing bank.

(Pub. L. 92-181, title III, § 3.3, Dec. 10, 1971, 85 Stat. 603.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2223 of this title.

§ 2125. Dividends

Dividends may be payable only on nonvoting investment stock, other than stock held by the

Governor of the Farm Credit Administration, if declared by the board of directors of the bank.

(Pub. L. 92-181, title III, § 3.4, Dec. 10, 1971, 85 Stat. 604.)

§ 2126. Retirement of stock

Any nonvoting stock held by the Governor of the Farm Credit Administration shall be retired to the extent required by section 2151(b) of this title before any other outstanding voting or nonvoting stock shall be retired except as may be otherwise authorized by Farm Credit Administration. When those requirements have been satisfied, nonvoting investment stock may be called for retirement at par. With the approval of the issuing bank, the holder may elect not to have the called stock retired in response to a call, reserving the right to have such stock included in the next call for retirement. When the requirements of section 2151(b) of this title have been met, voting stock may also be retired at fair book value not exceeding par, on call or on such revolving basis as the board may determine with approval of the Farm Credit Administration with due regard for its total capital needs: *Provided, however,* That all equities in the district banks issued or allocated with respect to 1971 and prior years shall be retired on a revolving basis according to the year of issue with the oldest outstanding equities being first retired. Equities issued for subsequent years shall not be called or retired until equities described in the preceding sentence of this proviso have been retired.

(Pub. L. 92-181, title III, § 3.5, Dec. 10, 1971, 85 Stat. 604.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2132 of this title.

§ 2127. Guaranty fund subscriptions in lieu of stock

If any cooperative association is not authorized under the laws of the State in which it is organized to take and hold stock in a bank for cooperatives, the bank shall, in lieu of any requirement for stock purchase, require the association to pay into or have on deposit in a guaranty fund, or the bank may retain out of the amount of the loan and credit to the guaranty fund account of the borrower, a sum equal to the amount of stock which the association would otherwise be required to own. Each reference to stock of the banks for cooperatives in this chapter shall include such guaranty fund equivalents. The holder of the guaranty fund equivalent and the bank shall each be entitled to the same rights and obligations with respect thereto as the rights and obligations associated with the class or classes of stock involved.

(Pub. L. 92-181, title III, § 3.6, Dec. 10, 1971, 85 Stat. 604.)

§ 2128. Lending powers

The banks for cooperatives are authorized to make loans and commitments to eligible cooperative associations and to extend to them other technical and financial assistance, including but not limited to discounting notes and other obligations, guarantees, collateral custody, or participation with other banks for cooperatives and commercial banks or other financial institutions in loans to eligible cooperatives, under such terms and conditions as may be determined to be feasible by the board of directors of each bank for cooperatives under regulations of the Farm Credit Administration. Such regulations may include provisions for avoiding duplication between the Central Bank and district banks for cooperatives. Each bank may own and lease, or lease with option to purchase, to stockholders eligible to borrow from the bank equipment needed in the operations of the stockholder.

(Pub. L. 92-181, title III, § 3.7, Dec. 10, 1971, 85 Stat. 605.)

§ 2129. Eligibility

Any association of farmers, producers, or harvesters of aquatic products, or any federation of such associations, which is operated on a cooperative basis, and has the powers for processing, preparing for market, handling, or marketing farm or aquatic products; or for purchasing, testing, grading, processing, distributing, or furnishing farm or aquatic supplies or furnishing farm business services or services to eligible cooperatives and conforms to either of the two following requirements:

(a) no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein; or

(b) does not pay dividends on stock or membership capital in excess of such per centum per annum as may be approved under regulations of the Farm Credit Administration; and in any case

(c) does not deal in farm products or aquatic products, or products processed therefrom, farm or aquatic supplies, or farm business services with or for nonmembers in an amount greater in value than the total amount of such business transacted by it with or for members, excluding from the total of member and nonmember business transactions with the United States or any agency or instrumentality thereof or services or supplies furnished as a public utility; and

(d) a percentage of the voting control of the association not less than 80 per centum (70 per centum in the case of rural electric, telephone, and public utility cooperatives), or such higher percentage as established by the district board is held by farmers, producers or harvesters of aquatic products, or eligible cooperative associations as defined herein;

shall be eligible to borrow from a bank for cooperatives.

(Pub. L. 92-181, title III, § 3.8, Dec. 10, 1971, 85 Stat 605; Pub. L. 94-184, § 1(a), Dec. 31, 1975, 89 Stat. 1060.)

AMENDMENTS

1975—Subsec. (d). Pub. L. 94-184 added provision relating to 70 per centum of voting control in the case of rural electric, telephone, and public utility cooperatives.

§ 2130. Ownership of stock by borrowers

(a) Each borrower at the time a loan is made by a bank for cooperatives shall own at least one share of voting stock and shall be required by the bank with the approval of the Farm Credit Administration to invest in additional voting stock or nonvoting investment stock at that time, or from time to time, as the lending bank may determine, but the requirement for investment in stock at the time the loan is closed shall not exceed an amount equal to 10 per centum of the face amount of the loan. Such additional ownership requirements may be based on the face amount of the loan, the outstanding loan balance or on a percentage of the interest payable by the borrower during any year or during any quarter thereof, or upon such other basis as the bank, with the approval of the Farm Credit Administration, determines will provide adequate capital for the operation of the bank and equitable ownership thereof among borrowers. In the case of a direct loan by the Central Bank, the borrower shall be required to own or invest in the necessary stock in a district bank or banks as may be approved by the Farm Credit Administration and such district bank shall be required to own a corresponding amount of stock in the Central Bank, but voting stock shall be in the one district bank, designated by the Farm Credit Administration.

(b) Notwithstanding the provisions of subsection (a) of this section, the purchase of stock need not be required with respect to that part of any loan made by a bank for cooperatives which it sells to or makes in participation with financial institutions other than any of the banks for cooperatives. In such cases the distribution of earnings of the bank for cooperatives shall be on the basis of the interest of the loan retained by such bank.

(Pub. L. 92-181 title III, § 3.9, Dec. 10, 1971, 85 Stat. 605.)

§ 2131. Loans

(a) Interest rates and charges

Loans made by a bank for cooperatives shall bear interest at a rate or rates determined by the board of directors of the bank from time to time, with the approvel of the Farm Credit Administration. In setting rates and charges, it shall be the objective to provide the types of credit needed by eligible borrowers at the lowest reasonable cost on a sound business basis, taking into account the net cost of money to the bank, necessary reserves and expenses of the bank, and services provided. The loan documents may provide for the interest rate or rates to vary from time to time during the repayment period of the loan, in accordance with the rate or rates currently being charged by the bank.

(b) Security

Loans shall be made upon such terms, conditions, and security, if any, as may be determined by the bank in accordance with regulations of the Farm Credit Administration.

(c) Lien

Each bank for cooperatives shall have a first lien on all stock or other equities in the bank as collateral for the payment of any indebtedness of the owner thereof to the bank. In the case of a direct loan to an eligible cooperative by the Central Bank, the Central Bank shall have a first lien on the stock and equities of the borrower in the district bank and the district bank shall have a lien thereon junior only to the lien of the Central Bank.

(d) Cancellation; application on indebtedness

In any case where the debt of a borrower is in default, or in any case of liquidation or dissolution of a present or former borrower from a bank for cooperatives, the bank may, but shall not be required to, retire and cancel all or a part of the stock, allocated surplus or contingency reserves, or any other equity in the bank owned by or allocated to such borrower, at the fair book value thereof not exceeding par, and, to the extent required in such cases, corresponding shares and allocations and other equity interests held by a district bank in another district bank on account of such indebtedness, shall be retired or equitably adjusted.

(Pub. L. 92-181, title III, § 3.10, Dec. 10, 1971, 85 Stat. 606.)

§ 2132. Earnings and reserves; application of savings

(a) Application of savings when bank has outstanding stock held by Governor

Each bank for cooperatives, at the end of each fiscal year when said bank shall have stock outstanding held by the Governor of the Farm Credit Administration, shall determine the amount of its net savings after paying or providing for all operating expenses (including reasonable valuation reserves and losses in excess of any such applicable reserves) and shall apply such savings as follows: (1) To the restoration of the amount of the impairment, if any, of capital stock, as determined by its board of directors; (2) 25 per centum of any remaining net savings shall be used to create and maintain a surplus account; (3) it shall next pay to the United States a franchise tax as provided in section 2151 of this title; (4) reasonable contingency reserves may be established; (5) dividends on investment stock may be declared as provided in this subchapter; and (6) any remaining net savings shall be distributed as patronage refunds as provided in subsection (c) or (d) of this section: *Provided,* That any patronage refunds received by a district bank from any other bank for cooperatives shall be excluded from net savings of the district bank for the purpose of computing such franchise tax. Amounts applied as provided in (2) above after January 1, 1956, shall be allocated on a patronage basis approved by the Farm Credit Administration. At the end of any fiscal year any portion of the reserve established under (4) above which is no longer deemed necessary shall be transferred to the surplus account and, if the surplus account of any such bank for cooperatives exceeds 25 per centum of the sum of all its outstanding capital stock, the bank may distribute in the same manner as a patronage refund any part or all such excess which has been allocated: Provided, That any surplus and contingency reserve shown on the books of the banks as of January 1, 1956, shall not be distributed as patronage refunds. In making such distributions except as otherwise provided in section 2126 of

this title and distributions by the Central Bank, the oldest outstanding allocations shall be distributed first. Whenever used in this subchapter, the words "surplus account" as applied to any bank for cooperatives shall mean any surpluses and contingency reserves shown on the books of the bank as of January 1, 1956, and any amounts accumulated as allocated or unallocated surplus after said date. Said surplus account shall be divided to show the amounts thereof subject to allocation as provided in this subsection and may be further subdivided as prescribed by the Farm Credit Administration.

(b) Application of savings when bank has no outstanding capital stock held by Governor

Whenever at the end of any fiscal year a bank for cooperatives shall have no outstanding capital stock held by the Governor of the Farm Credit Administration, the net savings shall, under regulations prescribed by the Farm Credit Administration, continue to be applied on a cooperative basis with provision for sound, adequate capitalization to meet the changing financing needs of eligible cooperative borrowers and prudent corporate fiscal management, to the end that current year's patrons carry their fair share of the capitalization, ultimate expenses, and reserves related to the year's operations and the remaining net savings shall be distributed as patronage refunds as provided in subsections (c) and (d) of this section. Such regulations may provide for application of less than 25 per centum of net savings to the restoration or maintenance of an allocated surplus account, reasonable additions to unallocated surplus, or to unallocated reserves of not to exceed such per centum of net savings after payment of operating expenses as may be approved by the Farm Credit Administration, and provide for allocations to patrons not qualified under Title 26, the Internal Revenue Code, or payment of such per centum of patronage refunds in cash, as the board may determine. If during the fiscal year but not at the end thereof a bank shall have had outstanding capital stock held by the United States, provision will be made for payment of franchise taxes required in section 2151 of this title.

(c) Patronage refunds

The net savings of each district bank for cooperatives, after the earnings for the fiscal year have been applied in accordance with subsections (a) or (b) of this section whichever is applicable, shall be paid in stock or in cash, or both, as determined by the board, as patronage refunds to borrowers of the fiscal year for which such patronage refunds are distributed. Except as provided in subsection (d) below, all patronage refunds shall be paid in proportion that the amount of interest and service fees on the loans to each borrower during the year bears to the interest and service fees on the loans of all borrowers during the year or on such other proportionate patronage basis as the Farm Credit Administration may approve.

(d) Savings of Central Bank for Cooperatives

The net savings of the Central Bank for Cooperatives after the earnings for the fiscal year have been applied in accordance with subsections (a) or (b) of this section whichever is applicable, shall be paid in stock or cash, or both, as determined by the board, as patronage refunds to the district banks on the basis of interests held by the Central Bank in loans made by the district banks and upon any direct loans made by the Central Bank to cooperative associations, or on such other proportionate patronage basis as the Farm Credit Administration may approve. In cases of direct loans, such refund shall be paid to the district bank or banks which issued their stock to the borrower incident to such loans, and the district bank or banks shall issue a like amount of patronage refunds to the borrower.

(e) Loss carryover

In the event of a net loss in any fiscal year after providing for all operating expenses (including reasonable valuation reserves and losses in excess of any applicable reserves), such loss may be carried forward or carried back, if appropriate, or otherwise shall be absorbed by charges to unallocated reserve or surplus accounts established after December 10, 1971; charges to allocated contingency reserve account; charges to allocated surplus accounts; charges to other contingency reserve and surplus accounts; the impairment of voting stock; or the impairment of all other stock.

(f) Charge of unrecognized costs or expenses to reserve, surplus, or patronage allocations

Notwithstanding any other provisions of this section any costs or expenses attributable to a prior year or years but not recognized in determining the net savings for such year or years may be charged to reserves or surplus of the bank or to patronage allocations for such years, as may be determined by the board of directors.

(g) Payment of patronage refunds in cash

For any year that a bank for cooperatives is subject to Federal income tax, it may pay in cash such portion of its patronage refunds as will permit its taxable income to be determined without taking into account savings applied as allocated surplus, allocated contingency reserves, and patronage refunds under subsection (a) or (b) of this section.

(Pub. L. 92-181, title III, § 3.11, Dec. 10, 1971, 85 Stat. 606.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2151 of this title.

§ 2133. Distribution of assets on liquidation or dissolution

In the case of liquidation or dissolution of any bank for cooperatives, after payment or retirement, first, of all liabilities; second, of all capital stock issued before January 1, 1956, at par, any stock held by the Governor of the Farm Credit Administration at par, and all nonvoting stock at par; and third, all voting stock at par; any surplus and reserves existing on January 1, 1956, shall be paid to the holders of stock issued before that date, stock held by the Governor of the Farm Credit Administration, and voting stock pro rata; and any remaining allocated surplus and reserves shall be distributed to those entities to which they are allocated on the books of the bank, and any other re-

maining surplus shall be paid to the holders of outstanding voting stock. If it should become necessary to use any surplus or reserves to pay any liabilities or to retire any capital stock, unallocated reserves or surplus, allocated reserves and surplus shall be exhausted in accordance with rules prescribed by Farm Credit Administration.

(Pub. L. 92-181, title III, § 3.12, Dec. 10, 1971, 85 Stat. 608.)

§ 2134. Taxation

Each bank for cooperatives and its obligations are instrumentalities of the United States and as such any and all notes, debentures, and other obligations issued by such bank shall be exempt, both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States or any State, territorial, or local taxing authority. Such banks, their property, their franchises, capital, reserves, surplus, and other funds, and their income shall be exempt from all taxation now or hereafter imposed by the United States or by any State, territorial, or local taxing authority; except that interest on the obligations of such banks shall be subject only to Federal income taxation in the hands of the holder thereof pursuant to the Public Debt Act of 1941 (31 U.S.C. 742(a)) and except that any real and tangible personal property of such banks shall be subject to Federal, State, territorial, and local taxation to the same extent as similar property is taxed. The exemption provided in the preceding sentence shall apply only for any year or part thereof in which stock in the bank for cooperatives is held by the Governor of the Farm Credit Administration.

(Pub. L. 92-181, title III, § 3.13, Dec. 10, 1971, 85 Stat. 608.)

References in Text

The Public Debt Act of 1941 (31 U.S.C. 742(a)), referred to in text, is act Feb. 19, 1941, ch. 7, 55 Stat. 7. For classification of this Act to the Code, see Tables volume. 31 U.S.C. 742(a) is probably a reference to section 742a of Title 31, Money and Finance.

SUBCHAPTER IV—PROVISIONS APPLICABLE TO TWO OR MORE CLASSES OF INSTITUTIONS OF THE SYSTEM

PART A—FUNDING

§ 2151. Stock purchased by Governor for the Farm Credit Administration; retirement; franchise tax

(a) Stock purchases

The Federal land banks, the Federal intermediate credit banks, the banks for cooperatives, and, subject to section 2094(d) of this title, the production credit associations may issue stock which may be purchased by the Governor of the Farm Credit Administration on behalf of the United States as a temporary investment in the stock of the institution to help one or several of the banks or associations to meet emergency credit needs of borrowers. The ownership of such stock shall be deemed to not change the status of ownership of the banks or associations, but, during the time such stock is outstanding, the pertinent provisions of the Government Corporation Control Act [31 U.S.C. 841 et seq.] shall be applicable.

(b) Retirement of stock

The Governor shall require the retirement of such stock at such time as in his opinion the bank or association has resources available therefor and the need for such temporary investment is reduced or no longer exists. If the Governor determines that a production credit association does not have resources available to retire stock held by him, but in his judgment, the Federal intermediate credit bank of the district has resources available to do so, the Governor may require such bank to invest in an equivalent amount of nonvoting stock of said association and the association then shall retire the stock held by the Governor.

(c) Franchise tax

For any year or part thereof in which the Governor holds any stock in a bank of the System, such institution after complying with sections 2051, 2077, 2095, and 2132 of this title, respectively, shall pay to the United States as a franchise tax a sum equal to the lower of 25 per centum of its net earnings for the year before establishing any contingency reserves or declaring any dividends or patronage distributions, not exceeding a rate of return on such temporary investment calculated at a rate determined by the Secretary of the Treasury equal to the average annual rate of interest on all public issues of debt obligations of the United States issued during the fiscal year ending next before such tax is due, multiplied by the percentage that the number of days such stock is outstanding is of three hundred and sixty-five days. Such payments shall be deposited in the miscellaneous receipts in the Treasury.

(Pub. L. 92-181, title IV, § 4.0, Dec. 10, 1971, 85 Stat. 609.)

References in Text

The Government Corporation Control Act, referred to in subsec. (a), is act Dec. 6, 1945, ch. 557, 59 Stat. 597, which is classified generally to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance. For complete classification of this Act to the Code, see section 841 of Title 31 and Tables volume.

Section Referred to in Other Sections

This section is referred to in sections 2051, 2073, 2077, 2126, 2132, 2152, 2252 of this title.

§ 2152. Revolving funds and government deposits

(a) Investment in stock of intermediate credit banks and production credit associations

The revolving fund established by Public Law 87-343, 75 Stat. 758, as amended, shall be available at the request of the Governor of the Farm Credit Administration for his temporary investment in the stock of any Federal intermediate credit banks or production credit associations as provided in section 2151 of this title and for any other purpose authorized by said Act. Funds received from the partial or the full retirement of such investments shall be deposited in this revolving fund.

(b) Investment in stock of banks for cooperatives

The revolving fund established by Public Law 87-494, 76 Stat. 109, as amended, shall be available at the request of the Governor of the

Farm Credit Administration for his temporary investment in the stock of any bank for cooperatives as provided in section 2151 of this title. Funds received from the partial or full retirement of such investments shall be deposited in this revolving fund.

(c) Deposits for temporary use of land banks; certificates of indebtedness; maximum aggregate deposits

The Secretary of the Treasury is authorized, in his discretion, upon the request of the Farm Credit Administration, to make deposits for the temporary use of any Federal land bank, out of any money in the Treasury not otherwise appropriated. Such Federal land bank shall issue to the Secretary of the Treasury a certificate of indebtedness for any such deposit, bearing a rate of interest not to exceed the current rate charged for other Government deposits, to be secured by bonds or other collateral, to the satisfaction of the Secretary of the Treasury. Any such certificate shall be redeemed and paid by such land bank at the discretion of the Secretary of the Treasury. The aggregate of all sums so deposited by the Secretary of the Treasury shall not exceed the sum of $6,000,000 at any one time.

(Pub. L. 92-181, title IV, § 4.1, Dec. 10, 1971, 85 Stat. 609.)

REFERENCES IN TEXT

The revolving fund established by Public Law 87-343, 75 Stat. 758, as amended, referred to in subsec. (a), refers to the fund covered by former section 1131i of this title. See Revolving Funds note below.

"Said Act", referred to in subsec. (a), is Pub. L. 87-343, Oct. 3, 1961, 75 Stat. 758. For classification of this Act to the Code, see Tables volume.

The revolving fund established by Public Law 87-494, 76 Stat. 109, as amended, referred to in subsec. (b), refers to the revolving fund covered by section 1141d of this title. See Revolving Funds note below.

REVOLVING FUNDS

At the time of enactment of this section by Pub. L. 92-181 funds for temporary investment by the Governor of the Farm Credit Administration in the farm credit system were available from two revolving funds.

The first fund, providing moneys for investment in production credit associations and intermediate credit banks, was covered by former section 1131i of this title. Such fund was itself the result of an earlier merger of two revolving funds, the first having been created by the Farm Credit Act of 1933 and the second having been created by the Federal Farm Mortgage Corporation Act of 1934. These two were combined into a single fund pursuant to Pub. L. 87-343, § 2(1), Oct. 3, 1961, 75 Stat. 758. Each of the statutory steps in the establishment of such fund was cast in the form of an amendment to the Farm Credit Act of 1933. Since such Farm Credit Act of 1933 has been repealed by section 5.26 of Pub. L. 92-181, section 1131i of this title is carried as repealed. Notwithstanding such apparent repeal, statements of Congressional intent indicate an intention to retain the fund using as its statutory base the law (Pub. L. 87-343) which had effected the consolidation in 1961.

The second fund, providing moneys for investment in banks for cooperatives, is covered by section 1141d of this title. Although the basic authority for such fund would be the Agricultural Marketing Act of 1929, a more updated authority for such fund is the Agricultural Marketing Act Amendment of 1962, Pub. L. 87-494, June 25, 1962, 76 Stat. 109, under which the fund was reduced to $150,000,000 and the amount in such fund in excess of such figure was returned to the Treasury as miscellaneous receipts.

§ 2153. Power to borrow; issuance of notes, bonds, debentures, and other obligations

Each of the banks of the System, in order to obtain funds for its authorized purposes, shall have power, subject to supervision of the Farm Credit Administration, and subject to the limitations of paragraph (e) of this section, to—

(a) Borrow money from or loan to any other institution of the System, borrow from any commercial bank or other lending institution, issue its notes or other evidence of debt on its own individual responsibility and full faith and credit, and invest its excess funds in such sums, at such times, and on such terms and conditions as it may determine.

(b) Issue its own notes, bonds, debentures, or other similar obligations, fully collateralized as provided in section 2154(b) of this title by the notes, mortgages, and security instruments it holds in the performance of its functions under this chapter in such sums, maturities, rates of interest, and terms and conditions of each issue as it may determine with approval of the Governor.

(c) Join with any or all banks organized and operating under the same subchapter of this chapter in borrowing or in issuance of consolidated notes, bonds, debentures, or other obligations as may be agreed with approval of the Governor.

(d) Join with other banks of the System in issuance of System-wide notes, bonds, debentures, and other obligations in the manner, form, amounts, and on such terms and conditions as may be agreed upon with approval of the Governor. Such System-wide issue by the participating banks and such participations by each bank shall not exceed the limits to which each such bank is subject in the issuance of its individual or consolidated obligations and each such issue shall be subject to approval of the Governor: *Provided, however,* There shall be no issues of System-wide obligations without the concurrence of the boards of directors of each of the 12 districts and the Central Bank for Cooperatives and the approval of the Governor for such issues shall be conditioned on and be evidence of the compliance with this provision.

(e) No bank or banks shall issue notes, bonds, debentures, or other obligations individually or in concert with one or more banks of the System other than through their fiscal agent under any provision of this chapter except under subsection (a) of this section: *Provided,* That any bank or banks may issue investment bonds or like obligations other than through the fiscal agent if the interest rate is not in excess of the interest allowable on savings deposits of commercial banks of comparable amounts and maturities under Federal Reserve regulation on its member banks.

(Pub. L. 92-181, title IV, § 4.2, Dec. 10, 1971, 85 Stat. 610.)

§ 2154. Aggregate of obligations; collateral

(a) No issue of long-term notes, bonds, debentures, or other similar obligations by a bank or banks shall be approved in an amount which,

together with the amount of other bonds, debentures, long-term notes, or other similar obligations issued and outstanding, exceeds twenty times the capital and surplus of all the banks which will be primarily liable on the proposed issue, or such lesser amount as the Farm Credit Administration shall establish by regulation.

(b) Each bank shall have on hand at the time of issuance of any long-term notes, bonds, debentures, or other similar obligations and at all times thereafter maintain, free from any lien or other pledge, notes and other obligations representing loans made under the authority of this chapter, obligations of the United States or any agency thereof direct or fully guaranteed, other readily marketable securities approved by the Farm Credit Administration, or cash, in an aggregate value equal to the total amount of long-term notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.

(Pub. L. 92-181, title IV, § 4.3, Dec. 10, 1971, 85 Stat. 611.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2153 of this title.

§ 2155. Liability of banks; United States not liable

(a) Primary and secondary liability

Each bank of the System shall be fully liable on notes, bonds, debentures, or other obligations issued by it individually, and shall be liable for the interest payments on long-term notes, bonds, debentures, or other obligations issued by other banks operating under the same subchapter of this chapter. Each bank shall also be primarily liable for the portion of any issue of consolidated or System-wide obligations made on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration in order to make payments of interest or principal which any bank primarily liable therefor shall be unable to make. Such calls shall be made first upon the other banks operating under the same subchapter of this chapter as the defaulting bank, and second upon banks operating under other subchapters of this chapter, taking into consideration the capital, surplus, bonds, debentures, or other obligations which each may have outstanding at the time of such assessment.

(b) Resolutions as to liability; execution of obligations

Each bank participating in an issue shall by appropriate resolution undertake such responsibility as provided in subsection (a) of this section, and in the case of consolidated or System-wide obligations shall authorize the Governor to execute such long-term notes, bonds, debentures, or other obligations on its behalf. When a consolidated or System-wide issue is approved, the notes, bonds, debentures, or other obligations shall be executed by the Governor and the banks shall be liable thereon as provided herein.

(c) United States liability

The United States shall not be liable or assume any liability directly or indirectly thereon.

(Pub. L. 92-181, title IV, § 4.4, Dec. 10, 1971, 85 Stat. 611.)

§ 2156. Finance committee

There shall be established a finance committee for the banks organized and operated under subchapters I, II, and III, respectively, of this chapter, composed of the presidents of each bank. Each such committee may have such officers and such subcommittees for such terms and such representation as may be agreed upon between the banks. When appropriate to the performance of their function, the subcommittee's[1] or representatives thereof, of the various banks shall constitute such subcommittees in connection with System-wide issues of obligations. The finance committees and subcommittees acting for the banks of the System shall, subject to approval of the Governor, determine the amount, maturities, rates of interest, and participation by the several banks in each issue of joint, consolidated, or System-wide obligations.

(Pub. L. 92-181, title IV, § 4.5, Dec. 10, 1971, 85 Stat. 611.)

§ 2157. Bonds as investments

The bonds, debentures, and other similar obligations issued under the authority of this chapter shall be lawful investments for all fiduciary and trust funds and may be accepted as security for all public deposits.

(Pub. L. 92-181, title IV, § 4.6, Dec. 10, 1971, 85 Stat. 612.)

§ 2158. Purchase and sale by Federal Reserve System

Any member of the Federal Reserve System may buy and sell bonds, debentures, or other similar obligations issued under the authority of this chapter and any Federal Reserve bank may buy and sell such obligations to the same extent and subject to the same limitations placed upon the purchase and sale by said banks of State, county, district, and municipal bonds under section 355 of this title.

(Pub. L. 92-181, title IV, § 4.7, Dec. 10, 1971, 85 Stat. 612.)

§ 2159. Purchase and sale of obligations

Each bank of the System may purchase its own obligations and the obligations of other banks of the System and may provide for the sale of obligations issued by it, consolidated obligations, or Systemwide obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, and to deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

(Pub. L. 92-181, title IV, § 4.8, Dec. 10, 1971, 85 Stat. 612.)

§ 2160. Fiscal agency

A fiscal agency shall be established by the banks for such of their functions relating to the issuance, marketing, and handling of their obligations, and interbank or intersystem flow of funds as may from time to time be required.

[1] So in original. Probably should be "subcommittees".

(Pub. L. 92-181, title IV, § 4.9, Dec. 10, 1971, 85 Stat. 612.)

PART B—DISSOLUTION AND MERGER

§ 2181. Merger of similar banks

Banks organized or operating under subchapters I, II, or III, respectively, of this chapter may upon majority vote cast by their voting stockholders and contributors to their guaranty funds in accordance with the voting strength provisions of section 2223(c) of this title relating to elections of directors of the district boards, and with the approval of the Farm Credit Administration, merge with banks in other districts operating under the name subchapter of this chapter.[1]

(Pub. L. 92-181, title IV, § 4.10, Dec. 10, 1971, 85 Stat. 612.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2011, 2071, 2121, 2252 of this title.

§ 2182. Board of directors for merged bank

In the event of merger of two or more banks to serve borrowers in more than one farm credit district, a separate board of directors shall be created for the resulting merged bank. The board thus created shall be composed of two directors elected by each of the district boards involved, at least one of which from each district shall have been elected by the eligible stockholders of or subscribers to the guaranty fund of the merging banks, and one director appointed by the Governor with the advice and consent of the Federal Farm Credit Board. Notwithstanding the foregoing, the bylaws of the merged bank may, with the approval of the Farm Credit Administration, provide for a different number of directors selected in a different manner. The board so constituted shall have such separate and distinct powers, functions, and duties as are normally exercised by a district board related to the operations and policies of the banks which were merged.

(Pub. L. 92-181, title IV, § 4.11, Dec. 10, 1971, 85 Stat. 612.)

§ 2183. Dissolution; voluntary liquidation; mergers; receiverships; conservators

(a) No institution of the System shall go into voluntary liquidation without the consent of the Farm Credit Administration and with such consent may liquidate only in accordance with regulations prescribed by the Farm Credit Administration. Associations may voluntarily merge with other like associations upon the vote of a majority of each of their stockholders present and voting or voting by written proxy at duly authorized meetings, and with the approval of the supervising bank and the Farm Credit Administration. The Federal Farm Credit Board may require such merger whenever it determines, with the concurrence of the district board, that an association has failed to meet its outstanding obligations or failed to conduct its operations in accordance with this chapter.

[1] So in original. Probably should read "same subchapter of this chapter".

(b) Upon default of any obligation by any institution of the System, such institution may be declared insolvent and placed in the hands of a conservator or a receiver appointed by the Governor and the proceedings thereon shall be in accordance with regulations of the Farm Credit Administration regarding such insolvencies.

(Pub. L. 92-181, title IV, § 4.12, Dec. 10, 1971, 85 Stat. 612.)

PART C—RIGHTS OF APPLICANTS

§ 2201. Notice of action on application

Every applicant for a loan from an institution of the System shall be entitled to prompt notice of action on his application, and, if the loan applied for is reduced or denied, the reason for such action.

(Pub. L. 92-181, title IV, § 4.13, Dec. 10, 1971, 85 Stat. 613.)

§ 2202. Reconsideration

Any applicant who has reason to believe that the action on his application by an association failed to take into account facts pertinent to his application, or has misinterpreted or failed to properly apply the applicable law or rules and regulations governing his application, may, if he so requests in writing within thirty days of the date of that notice, request an informal hearing on his application and the action of the association in reduction or denial thereof, or the reason for such action, in person before the loan committee or officer or employee thereof authorized to act on applications under section 2033(11) or 2093(18) of this title. Promptly after such a hearing, he shall be notified of the decision upon reconsideration and the reasons therefor.

(Pub. L. 92-181, title IV, § 4.14, Dec. 10, 1971, 85 Stat. 613.)

§ 2203. Nomination of association directors; representative selection of nominees

Each production credit association and each Federal land bank association shall elect a nominating committee by vote of the stockholders at the annual meeting to serve for the following year. Each nominating committee shall review lists of farmers from the association territory, determine their willingness to serve, and submit for election a slate of eligible candidates which shall include at least two nominees for each elective office to be filled. In doing so, the committee shall endeavor to assure representation to all sections of the association territory and as nearly as possible to all types of agriculture practiced within the area. Employees of the association shall not be eligible to be nominated, elected, or serve as a member of the board. Nominations shall also be accepted from the floor. Members of the board are not eligible to serve on the nominating committee. Regulations of the Farm Credit Administration governing the election of district directors shall similarly assure a choice of two nominees for each elective office to be filled and that the district board represent as nearly as possible all types of agriculture in the district.

(Pub. L. 92-181, title IV, § 4.15, Dec. 10, 1971, 85 Stat. 613.)

§ 2204. Tax-exempt guarantees prohibited

Notwithstanding any other provision of this chapter, no guarantee shall be made on any instrument of indebtedness the income from which is exempt in whole or in part from Federal taxation.

(Pub. L. 92-181, title IV, § 4.16, Dec. 10, 1971, 85 Stat. 613.)

SUBCHAPTER V—DISTRICT AND FARM CREDIT ADMINISTRATION ORGANIZATION

PART A—DISTRICT ORGANIZATION

§ 2221. Creation of districts

There shall be not more than twelve farm credit districts in the United States, which may be designated by number, one of which districts shall include the Commonwealth of Puerto Rico. The boundaries of the twelve farm credit districts existing on December 10, 1971, may be readjusted from time to time by the Federal Farm Credit Board, with the concurrence of the district boards involved. Two or more districts may be merged as provided in section 2252(2) of this title.

(Pub. L. 92-181, title V, § 5.0, Dec. 10, 1971, 85 Stat. 614.)

§ 2222. District boards of directors; membership; eligibility; terms

(a) Establishment of boards

There shall be in each farm credit district a farm credit board of directors composed of seven members. Each farm credit district board may include in its title the name of the city in which the banks of the System for the district are located or other geographical designation.

(b) Eligibility of directors

To be eligible for membership on a farm credit district board a person must be a citizen of the United States for at least ten years, and a resident of the district for at least two years.

A person shall not be eligible who—

(1) is or has, within one year next preceding the date of election or appointment, been a salaried officer or employee of the Farm Credit Administration or of any institution of the System;

(2) has been convicted of a felony or adjudged liable in damages for fraud; or

(3) if there is at the time of his election another resident of the same State who was elected to the district board by the same electorate, except where a district embraces only one State.

No director of a district board shall be eligible to continue to serve in that capacity and his office shall become vacant if after his election or appointment as a member of a district board, he continues or becomes a salaried officer or employee of the Farm Credit Administration, of any institution of the System, or a member of the Federal Farm Credit Board, or if he becomes legally incompetent or is finally convicted of a felony or held liable in damages for fraud. In any event, no director shall, within one year after the date when he ceases to be a member of the board, be elected or designated to serve as a salaried employee of any bank or joint employee of the district for which he served as director.

(c) Terms of office

The terms of district directors shall be for three years, except that the terms of appointed directors may be for a shorter or longer term to permit the staggering of such appointments over a three-year period but in no event shall such appointed director be eligible to serve for more than two full terms.

(Pub. L. 92-181, title V, § 5.1, Dec. 10, 1971, 85 Stat. 614.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2123, 2223 of this title.

§ 2223. Election and appointment of district directors

(a) Electing and appointing bodies

Two of the district directors shall be elected by the Federal land bank associations, two by the production credit associations, and two by the borrowers from or subscribers to the guaranty fund of the bank for cooperatives. The seventh member shall be appointed by the Governor with the advice and consent of the Federal Farm Credit Board.

(b) Nomination

At least two months before an election of an elected director the Farm Credit Administration shall cause notice in writing to be sent to those entitled to nominate candidates for such elected director. In the case of an election of a director by Federal land bank associations and borrowers through agencies, such notice shall be sent to all Federal land bank associations and borrowers through agencies in the district; in the case of an election by production credit associations, such notice shall be sent to all production credit associations in the district; and in the case of an election by cooperatives which are voting stockholders or subscribers to the guaranty fund of the bank for cooperatives of the district, such notice shall be sent to all cooperatives which are eligible, voting stockholders or subscribers to the guaranty fund at the time of sending the notice. The notice in the case of associations shall state the number of votes the board of each association is entitled to cast for nomination and election based on the voting stockholders of the association as determined by the Farm Credit Administration as near as practicable to the date of the notice. After receipt of such notice those entitled to nominate a director shall forward nominations to the Farm Credit Administration. The Farm Credit Administration shall, from the nominations received within sixty days after it sends such notice, prepare a list of candidates for such elected director, consisting of the three nominees receiving the highest number of votes, except that for elections to fill vacancies the Farm Credit Administration may specify a shorter period than sixty days but not less than thirty days.

(c) Election

At least one month before the election of an elected director, the Farm Credit Administration shall mail to each person or organization entitled to elect the elected director a list of the three candidates receiving the highest number of votes from those nominated in accordance with subsection (b) of this section. In the case of an election of a director by the Federal land bank associations, the directors of each land bank association shall cast the vote of such association for one of the candidates on the list. Each association shall be entitled to cast the number of votes specified in the notice prior to the nomination poll as determined by the Farm Credit Administration to be the number of voting stockholders of each association, and each direct borrower and borrower through agent shall be entitled to cast one vote. Each production credit association shall be entitled to cast the number of votes specified in the notice of nomination poll as determined by the Farm Credit Administration to be equal to the number of voting stockholders of such association. Each cooperative which is the holder of voting stock in or a subscriber to the guaranty fund of the bank for cooperatives shall be entitled to cast one vote except as provided in section 2124(d) of this title. The votes shall be forwarded to the Farm Credit Administration and no vote shall be counted unless received by it within sixty days after the sending of such list of candidates, except that for elections to fill vacancies the Farm Credit Administration may specify a shorter period than sixty days but not less than thirty days. In the case of a tie another runoff election between those tying shall be held.

(d) Vacancies

Any vacancies in the board of directors shall be filled for the unexpired term in the manner provided in this section and section 2222 of this title for the selection of such directors.

(Pub. L. 92-181, title V, § 5.2, Dec. 10, 1971, 85 Stat. 614.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2181, 2242 of this title.

§ 2224. Functions of district directors

The members of each farm credit district board of directors shall be and shall have all the functions, powers, and duties of directors for the Federal land banks, the Federal intermediate credit banks, and the district banks for cooperatives in their respective districts.

(Pub. L. 92-181, title V, § 5.3, Dec. 10, 1971, 85 Stat. 615.)

§ 2225. District board officers

Each farm credit district board shall elect from its members a chairman and a vice chairman and shall appoint a secretary from within or without its membership as it may see fit. The chairman, vice chairman, and secretary shall hold office for a term of one year and until their successors are selected and take office.

(Pub. L. 92-181, title V, § 5.4, Dec. 10, 1971, 85 Stat. 615.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2123 of this title.

§ 2226. Compensation of district boards

Members of each farm credit district board shall receive compensation, including reasonable allowances for necessary expenses, in attending meetings of the board as district board and as directors of the district banks including travel time. The compensation shall not be in excess of the level set by the Farm Credit Administration. In addition to attending said meetings, a director may not receive compensation and allowances for any services rendered in his capacity as director or otherwise for more than thirty days or parts of days in any one calendar year without the approval of the Farm Credit Administration.

(Pub. L. 92-181, title V, § 5.5, Dec. 10, 1971, 85 Stat. 616.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2123 of this title.

§ 2227. Powers of the district farm credit board

(a) Each farm credit district board shall have power to—

(1) Act as the board of directors for the district and of the several banks of the System in the district.

(2) Provide rules and regulations, governing the banks and associations in the district, not inconsistent with law.

(3) Elect or provide for joint officers and employees for the banks in its district which are institutions of the System or, upon agreement with banks in other districts, joint officers and employees of institutions in more than one district. The salary or other compensation of all such joint officers and employees and the allocation thereof between the banks shall be fixed by the district farm credit board. Officers and employees elected or provided for by the district farm credit board, whether separate officers and employees of the institutions or joint officers and employees, shall be officers and employees of the district institutions served by them. Employment, compensation, leave, retirement, except as provided in subsection (b) of this section, hours of duty, and all other conditions of employment of such joint officers and employees and of the separate officers and employees of the institutions in the district provided for by the board of directors shall be without regard to the provisions of title 5 relating to such matters, but all such determinations shall be consistent with the law under which the banks are organized and operate. Appointments, promotions, and separations so made shall be based on merit and efficiency and no political test or qualification shall be permitted or given consideration. The limitations against political activity and conflict of interest of such officers and employees shall be in accordance with rules and regulations prescribed by the Farm Credit Administration.

(4) Authorize the acquisition and disposal of such property, real or personal, as may be necessary or convenient for the transaction of the business of the banks of the System located in its district, upon such terms and conditions as it shall fix, and to prorate among such banks the cost of purchases, rentals, construction, repairs, alterations, maintenance, and operation in such amounts and in such manner as it shall determine. Any lease, or any contract for the purchase or sale of property, or any deed or conveyance of property, or any contract for the construction, repair, or alteration of buildings, authorized by a district farm credit board under this subsection shall be executed by the officers of the bank or banks concerned pursuant to the direction of such board. No provision of law relative to the acquisition or disposal of property, real or personal, by or for the United States, or relative to the making of contracts or leases by or for the United States, including the provisions set out in titles 40 and 41, and including provisions applicable to corporations wholly owned by the United States, shall be deemed or held applicable to any lease, purchase, sale, deed, conveyance, or contract authorized or made by a district farm credit board or the banks of the System under this subsection.

(5) Authorize agreements for the provision of joint services between institutions in the System and between districts for those banks' and associations' functions and for those services to borrowers which can most effectively be performed by the joint undertakings of the district or districts, all of such activities to be subject to the same supervision of the Farm Credit Administration as is applicable to such institutions under this chapter.

(6) Formulate broad policy considerations concerning the funding operations of the banks in the district and, in concert with the other district boards, furnish unified long-range policy guidance for the funding of the System.

(b) The provisions of subsection (a) of this section are qualified as follows:

(1) Each officer and employee of the banks of the System who, on December 31, 1959, was within the purview of the Civil Service Retirement Act, as amended [5 U.S.C. 8331 et seq.], shall continue so during his continuance as an officer or employee of any such banks or of the Farm Credit Administration without break in continuity of service. Any other officer or employee of such banks and any other person entering upon employment with any such banks after December 31, 1959, shall not be covered under the civil service retirement system by reason of such employment, except that (1) a person who, on December 31, 1959, was within the purview of the Civil Service Retirement Act, as amended, and thereafter becomes an officer or employee of any such banks without break in continuity of service shall continue under the civil service retirement system during his continuance as an officer or employee of any such banks without break in continuity of service and (2) a person who has been within the purview of said Act as an officer or employee of such banks and, after a break in such employment, again becomes an officer or employee of any of such banks may elect to continue under the civil service retirement system during his continuance as such officer or employee by so notifying the Civil Service Commission in writing within thirty days after such reemployment.

(2) Each of the banks of the System shall contribute to the civil service retirement and disability fund, for each fiscal year after June 30, 1960, a sum as provided by section 4(a) of the Civil Service Retirement Act, as amended [5 U.S.C. 8334(a)], except that such sum shall be determined by applying to the total basic salaries (as defined in that Act) paid to the employees of said banks who are covered by that Act, the per centum rate determined annually by the United States Civil Service Commission to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in such section 4(a). Each bank shall also pay into the Treasury as miscellaneous receipts such portion of the cost of administration of the fund as is determined by the United States Civil Service Commission to be attributable to its employees.

(Pub. L. 92-181, title V, § 5.6, Dec. 10, 1971, 85 Stat. 616.)

REFERENCES IN TEXT

The Civil Service Retirement Act, as amended, referred to in subsecs. (b)(1) and (2), was repealed and reenacted as subchapter III (§ 8331 et seq.) of chapter 83 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. Section 4(a) of the Civil Service Retirement Act is now covered by section 8334(a) of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2123 of this title.

PART B—FARM CREDIT ADMINISTRATION ORGANIZATION

EX. ORD. NO. 6084. REORGANIZING AGRICULTURAL CREDIT AGENCIES OF THE UNITED STATES

Ex. Ord. No. 6084, Mar. 27, 1933, provided in part: . . . it is hereby ordered that:

(1) The functions of the Secretary of Agriculture as a member of the Federal Farm Board, and the offices of the appointed members of the Federal Farm Board, except the office of the member designated as chairman thereof, are abolished.

(2) The name of the Federal Farm Board is changed to the Farm Credit Administration.

(3) The name of the office of Chairman of the Federal Farm Board is changed to Governor of the Farm Credit Administration, and he is vested with all the powers and duties of the Federal Farm Board.

(4) The functions of the Secretary of the Treasury as a member of the Federal Farm Loan Board, and the offices of the appointed members of the Federal Farm Loan Board, except the office of the member designated as farm loan commissioner, are abolished, and all the powers and functions of the Federal Farm Loan Board, are transferred to and vested in the Farm Loan Commissioner, subject to the jurisdiction and control of the Farm Credit Administration as herein provided.

(5) There are transferred to the jurisdiction and control of the Farm Credit Administration:

(a) The Federal Farm Loan Bureau and the functions thereof; together with the functions of the Federal Farm Loan Board, including the functions of the Farm Loan Commissioner;

(b) The functions of the Treasury Department and the Department of Agriculture, and the Secretaries thereof, under Executive authorizations to give aid to

farmers, dated July 26, 1918, and any extensions or amendments thereof;

(c) The functions of the Secretary of Agriculture under all provisions of law relating to the making of advances or loans to farmers, fruit growers, producers and owners of livestock and crops, and to individuals for the purpose of assisting in forming or increasing the capital stock of agricultural-credit corporations, livestock-loan companies, or like organizations, except Public Resolution No. 74, Seventieth Congress, approved December 21, 1928, providing for the Puerto Rican Hurricane Relief Commission;

(d) The Crop Production Loan Office and the Seed Loan Office of the Department of Agriculture, and the functions thereof;

(e) The functions of the Reconstruction Finance Corporation and its Board of Directors relating to the appointment of officers and agents to manage regional agricultural credit corporations formed under section 201(e) of the Emergency Relief and Construction Act of 1932 [section 1148 of this title]; relating to the establishment of rules and regulations for such management; and relating to the approval of loans and advances made by such corporations and of the terms and conditions thereof.

(6) The functions vested in the Federal Farm Board by section 9 of the Agricultural Marketing Act [former section 1141g of this title] are abolished except that such functions shall continue to be exercised to such extent and for such time as may be necessary to permit the orderly winding up of the activities of stabilization corporations heretofore recognized under authority of such section, and the governor of the Farm Credit Administration shall take appropriate action for winding up at the earliest practicable date the activities of such corporations and all affairs related to the exercise of such functions.

(7) The records, property (including office equipment), and personnel used and employed in the execution of the functions hereinbefore transferred are transferred to the jurisdiction and control of the Farm Credit Administration.

(8) The sum of $2,000,000 of the unexpended balances of appropriations made to the Federal Farm Board by Public Resolutions No. 43 and No. 51 of the Seventy-second Congress shall be impounded and returned to the Treasury, which sum shall be in addition to the other savings to be effected by the Farm Credit Administration as a result of this order.

(9) The unexpended balances of appropriations to the Secretary of Agriculture, the Federal Farm Loan Bureau, and the Federal Farm Board for salaries, expenses, and all other administrative expenditures in the execution of the functions herein vested in the Farm Credit Administration shall be transferred to and vested in the Farm Credit Administration as a single fund for its use for salaries, expenses, and all other administrative expenditures for the execution of any or all of such functions without restriction as to the particular functions for the execution of which the same were originally appropriated. All other appropriations, allotments, and other funds available for use in connection with the functions and executive agencies hereby transferred and consolidated are hereby transferred to and vested in the Farm Credit Administration, and shall be available for use by it, for the same purposes as if the Farm Credit Administration were named in the law or authority providing such appropriations, allotments, or other funds.

(10) All power, authority, and duties conferred by law upon any officer, executive agency, or head thereof, from which or from whom transfer is hereinbefore made, in relation to the executive agency or function transferred, are transferred to and vested in the Governor of the Farm Credit Administration.

(11) The Governor of the Farm Credit Administration is directed to dismiss, furlough, transfer, or make other appropriate disposition of such of the officers and employees under his jurisdiction and control as are not required for the proper execution of the functions of the Farm Credit Administration.

(12) The Governor of the Farm Credit Administration is authorized to execute any and all functions and perform any and all duties vested in him through such persons as he shall by order designate or employ.

(13) The Governor of the Farm Credit Administration, by order or rules and regulations, may consolidate, regroup, and transfer offices, bureaus, activities, and functions in the Farm Credit Administration, so far as may be required to carry out the purposes to which this order is directed, and may fix or change the names of such offices, bureaus, and activities and the duties, powers, and titles of their executive heads.

This order shall take effect upon the sixty-first calendar day after its transmission to Congress unless otherwise determined in accordance with the provisions of section 407 of the act cited above, as amended.

[All functions, powers and duties of the Governor of the Farm Credit Administration which relate to the making, administration, and liquidation of all loans identified or referred to in sections 5(b), 5(c), and 5(d) of this Executive Order were abolished by act Aug. 14, 1946, ch. 964, § 2(a)(2), 60 Stat. 1062, set out in note under former sections 1001 to 1005d of Title 7, Agriculture.]

§ 2241. Independent agency of executive branch; composition

The Farm Credit Administration shall be an independent agency in the executive branch of the Government. It shall be composed of the Federal Farm Credit Board, the Governor of the Farm Credit Administration, and such other personnel as are employed in carrying out the functions, powers, and duties vested in the Farm Credit Administration by this chapter.

(Pub. L. 92-181, title V, § 5.7, Dec. 10, 1971, 85 Stat. 617.)

§ 2242. Federal Farm Credit Board

(a) Establishment; membership; designation and appointment of members

There is established in the Farm Credit Administration a Federal Farm Credit Board. The Board shall consist of not more than thirteen members, one of whom shall be designated by the Secretary of Agriculture. The remainder of the Board shall be appointed by the President, with the advice and consent of the Senate, one from each farm credit district, to be known as the appointed members.

(b) Criteria for appointment

In making appointments to the Board, the President shall have due regard to a fair representation of the public interest, the welfare of all farmers, and the types of institutions constituting the Farm Credit System, with special consideration to persons who are experienced in cooperative agricultural credit, taking into consideration the lists of nominees proposed by the Farm Credit System as hereinafter provided.

(c) Requirements for membership

Each appointed member of the Board shall have been a citizen of the United States and shall have been a resident of the district from which he was appointed for not less than ten years next preceding his appointment, and the removal of residence from the district shall operate to terminate his membership on the Board. No person shall be eligible for nomination or appointment if within one year next preceding the commencement of his term he

has been a salaried officer or employee of the Farm Credit Administration or a salaried officer or employee of any institution of the Farm Credit System. Any person who is a member of a district farm credit board when appointed as a member of the Federal Farm Credit Board shall resign as a member of the district board before assuming his duties as a member of the Board. No person who becomes an appointed member of the Board shall be eligible to continue to serve in such capacity if such person is or becomes a member of a district farm credit board, or an officer or employee of the Farm Credit Administration, or director, officer, or employee of any institution of the Farm Credit System. No director shall, within one year after the date when he ceases to be a member of the Board, be elected or designated to serve as a salaried officer or employee of any bank, joint officer or employee; or officer or employee of the Farm Credit Administration.

(d) Secretary's representative on the Board

The Secretary of Agriculture shall designate one member of the Board to serve at the pleasure of the Secretary. He shall be known as the Secretary's representative on the Board. He shall be a citizen of the United States and shall have been a resident of the United States for not less than ten years preceding his designation on the Board. No person shall be designated by the Secretary if such person is a member of a farm credit district board, an officer or employee of the Farm Credit Administration, or an officer or employee of any institution operating under the supervision of the Farm Credit Administration. The Secretary's representative shall not be eligible to serve as Chairman, Vice Chairman, or Secretary of the Board but shall otherwise possess all the rights and privileges of membership on the Board.

(e) Term; vacancies

The term of office of the appointed members of the Board shall be six years and such members shall serve until their successors are duly appointed and qualified. No appointed member of the Board shall be eligible to serve more than one full term of six years and, in addition, if he is appointed to fill the unexpired portion of one term expiring before his appointment to a full term, he may be eligible thereafter for appointment to fill a full term of six years.

All vacancies for the offices of appointed members shall be filled for the unexpired portion of the term upon like nominations and like appointments: *Provided, however,* That the district board of directors may select a representative to meet with the Board, without the right of vote, prior to the filling of a vacancy occasioned by death, resignation, disability, or declination in the office of member from that district, under rules and regulations prescribed by the Board.

(f) List of nominees

A list of nominees for appointment as an appointed member of the Board shall be presented to the President for consideration in the filling of any office of Board member. The list shall be composed of one selected by each voting group in the district in which the member's term is about to expire or in which a vacancy occurs, determined in accordance with the procedure prescribed in section 2223 of this title for the nomination and election of members of a district farm credit board, except that the list of candidates for the Board for final election in the district shall be the two nominees of each voting group receiving the highest number of votes.

(g) Organization; quorum; election of officers of Board; meetings

The members of the Board shall meet and subscribe the oath of office and annually organize by the election of a Chairman and Vice Chairman. The Board shall appoint a Secretary from within or without the membership. Such officers of the Board shall serve for one year and until their successors are selected and take office. The Board may function notwithstanding vacancies exist, provided a quorum is present. A quorum shall consist of a majority of all the members of the Board, for the transaction of business. The Board shall hold at least four regularly scheduled meetings a year and such additional meetings at such times and places as it may fix and determine. Such meetings may be held on the call of the Chairman or any three Board members.

(h) Compensation

Each of the Board members shall receive the sum of $100 a day for each day or part thereof in the performance of his official duties at regular and special meetings of the Board and regular and special meetings of district boards. In addition to attending said meetings, members may receive compensation for services rendered as member for not more than thirty days or parts of days in any calendar year, and shall be reimbursed for necessary travel, subsistence, and other expenses in the discharge of their official duties without regard to other laws with respect to allowance for travel and subsistence of officers and employees of the United States. The Secretary's representative if he is a full-time officer or employee of the United States shall receive no additional compensation for his official duties on the Board, but may receive travel and subsistence and other expenses.

(i) Recordkeeping

The Board shall adopt such rules as it may see fit for the transaction of its business, and shall keep permanent records and minutes of its acts and proceedings.

(Pub. L. 92-181, title V, § 5.8, Dec. 10, 1971, 85 Stat. 617.)

§ 2243. Powers of the Federal Farm Credit Board

The Federal Farm Credit Board shall establish the general policy for the guidance of the Farm Credit Administration and approve the necessary rules and regulations for the implementation of this chapter not inconsistent with its provisions; may require such reports as it deems necessary from the institutions of the Farm Credit System; provide for the examination of the condition of and general supervision over the performance of the powers, functions, and duties vested in each such institution, and for the performance of all the powers and duties vested in the Farm Credit Administration or in the Governor which, in the judgment of the Board, relate to matters of broad and

general supervisory, advisory, or policy nature. The Board shall function as a unit without delegating any of its functions to individual members, but may appoint committees and subcommittees for studies and reports for consideration by the Board. It shall not operate in an administrative capacity.

(Pub. L. 92-181, title V, § 5.9, Dec. 10, 1971, 85 Stat. 619.)

§ 2244. Governor of the Farm Credit Administration

The Governor of the Farm Credit Administration shall be appointed by and serve at the pleasure of the Federal Farm Credit Board. He shall be responsible, subject to the general supervision and direction of the Board as to matters of a broad and general supervisory, advisory, or policy nature, for the execution of all the administrative functions and duties of the Farm Credit Administration. During any period in which the Governor holds any stock in any of the institutions subject to supervision of the Farm Credit Administration, the appointment of the Governor shall be subject to approval by the President and during any such period the President shall have the power to remove the Governor.

(Pub. L. 92-181, title V, § 5.10, Dec. 10, 1971, 85 Stat. 619.)

§ 2245. Compensation and expense allowance of Governor

The compensation of the Governor of the Farm Credit Administration shall be at the rate fixed in the Executive Pay Schedule. The Board shall fix the allowance for his necessary travel and subsistence expenses or per diem in lieu thereof.

(Pub. L. 92-181, title V, § 5.11, Dec. 10, 1971, 85 Stat. 620.)

REFERENCES IN TEXT

The Executive Pay Schedule, referred to in text, is set out in section 5311 et seq. of Title 5, Government Organization and Employees. Section 5314(57) of title 5 provides that Level II of the Executive Schedule applies to the position of Governor of the Farm Credit Administration.

§ 2246. Compliance by Governor with orders of Federal Farm Credit Board

It shall be the duty of the Governor of the Farm Credit Administration to comply with all orders and directions which he receives from the Federal Farm Credit Board and, as to third persons, all acts of the Governor shall be conclusively presumed to be in compliance with the orders and directions of the Board.

(Pub. L. 92-181, title V, § 5.12, Dec. 10, 1971, 85 Stat. 620.)

§ 2247. Authority of the Governor to fix powers and duties of divisions and instrumentalities of Farm Credit Administration

The Governor of the Farm Credit Administration is authorized, in carrying out the powers and duties now or hereafter vested in him by this chapter and acts supplementary thereto, to establish and to fix the powers and the duties of such divisions and instrumentalities as he may deem necessary to the efficient functioning of the Farm Credit Administration and the successful execution of the powers and duties so vested in the Governor and the Farm Credit Administration. The Governor shall appoint such other personnel as may be necessary to carry out the functions of the Farm Credit Administration: *Provided*, That the salary of positions of Deputy Governors shall not exceed the maximum scheduled rate of the general schedule of the Classification Act of 1949, as amended. The powers of the Governor may be exercised and performed by him through such other officers and employees of the Farm Credit Administration as he shall designate.

(Pub. L. 92-181, title V, § 5.13, Dec. 10, 1971, 85 Stat. 620.)

REFERENCES IN TEXT

The Classification Act of 1949, as amended, referred to in text was repealed and reenacted as chapter 51 and subchapter III of chapter 53 of Title 5, Government Organization and Employees, by Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378. The General Schedule is now set out under section 5332 of Title 5.

§ 2248. Seal of the Farm Credit Administration

The Farm Credit Administration shall have a seal, as adopted by the Governor, which shall be judicially noted.

(Pub. L. 92-181, title V, § 5.14, Dec. 10, 1971, 85 Stat. 620.)

§ 2249. Administrative expenses

The Farm Credit Administration may, within the limits of funds available therefor, make necessary expenditures for personnel services and rent at the seat of Government and elsewhere; contract stenographic reporting services; purchase and exchange lawbooks, books of reference, periodicals, newspapers, expenses of attendance at meetings and conferences; purchase, operation, and maintenance at the seat of Government and elsewhere of motor-propelled passenger-carrying vehicles and other vehicles; printing and binding; and for such other facilities and services, including temporary employment by contract or otherwise, as it may from time to time find necessary for the proper administration of this chapter.

(Pub. L. 92-181, title V, § 5.15, Dec. 10, 1971, 85 Stat. 620.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2251 of this title.

§ 2250. Allocation of expenses for administrative services; disposition of money

(a) The Farm Credit Administration shall prior to the first day of each fiscal year estimate the cost of administrative expenses for the ensuing fiscal year in administering this chapter, including official functions, and shall apportion the amount so determined among the institutions of the System on such equitable basis as the Farm Credit Administration shall determine, and shall assess against and collect in advance the amounts so apportioned from the institutions among which the apportionment is made.

(b) The amounts collected pursuant to subsection (a) of this section shall be covered into the Treasury, and credited to a special fund and, without regard to other law, shall be available to said Administration for expenditure during each fiscal year for salaries and expenses of said Administration. As soon as practicable after the end of each such fiscal year, the Administration shall determine, on a fair and reasonable basis, the cost of operation of the Farm Credit Administration and the part thereof which fairly and equitably should be allocated to each bank and association as its share of the cost during the fiscal year of such Administration. If the amount so allocated is greater than the amount collected from the bank or other institutions, the difference shall be collected from such bank or other institutions, and, if less, shall be refunded from the special fund to the bank or other institutions entitled thereto or credited in the special fund to such bank or other institutions for use for the same purposes in future fiscal years.

(Pub. L. 92-181, title V, § 5.16, Dec. 10, 1971, 85 Stat. 620.)

SECTION REFERRED TO IN OTHER SECTIONS

This section referred to in section 2251 of this title.

§ 2251. Quarters and facilities for the Farm Credit Administration

As an alternate to the rental of quarters under section 2249 of this title, and without regard to any other provision of law, the banks of the System, with the concurrence of two-thirds of the district boards, are hereby authorized—

(1) To lease or acquire real property in the District of Columbia or elsewhere for quarters of the Farm Credit Administration.

(2) To construct, develop, furnish, and equip such building thereon and such facilities appurtenant thereto as in their judgment may be appropriate to provide, to the extent the Federal Farm Credit Board may deem advisable, suitable, and adequate quarters and facilities for the Farm Credit Administration.

(3) To enlarge, remodel, or reconstruct the same.

(4) To make or enter into contracts for any of the foregoing.

The Board may require of the respective banks of the System, and they shall make to the Farm Credit Administration, such advances of funds for the purposes set out in this section as in the sole judgment of the Board may from time to time be advisable for the purposes of this section. Such advances shall be in addition to and kept in a separate fund from the assessments authorized in section 2250 of this title and shall be apportioned by the Board among the banks in proportion to the total assets of the respective banks, and determined in such manner and at such times as the Board may prescribe. The powers of the banks of the System and purposes for which obligations may be issued by such banks are hereby enlarged to include the purpose of obtaining funds to permit the making of advances required by this section. The plans and decisions for such building and facilities and for the enlargement, remodeling, or reconstruction thereof shall be such as is approved in the sole discretion of the Board.

(Pub. L. 92-181, title V, § 5.17, Dec. 10, 1971, 85 Stat. 621.)

§ 2252. Enumerated powers

The Farm Credit Administration shall have the following powers, functions, and responsibilities in connection with the institutions of the Farm Credit System and the administration of this chapter:

(1) Modify the boundaries of farm credit districts, with due regard for the farm credit needs of the country, as approved by the Federal Farm Credit Board, with the concurrence of the district boards involved.

(2) Where necessary or appropriate to carry out the policy and objectives of this chapter, issue and amend or modify Federal charters or the bylaws of institutions of the System; approve change in names of banks operating under this chapter; approve the merger of districts when agreed to by the boards of the districts involved and by a majority vote of the voting stockholders and contributors to the guaranty funds of each bank for each of such districts, voting in the same manner as is provided in section 2181 of this title; approve mergers of banks operating under the same subchapter of this chapter, merger of Federal land bank associations, merger of production credit associations and the consolidation or division of the territories which they serve; and approve consolidations of boards of directors or management agreements. Such mergers shall be encouraged where such action will improve service to borrowers and the financial stability, effect economies of operation, or permit desirable joint management, or consolidation of territories and office quarters.

(3) Make annual reports directly to the Congress on the condition of the System and its institutions and on the manner and extent to which the purposes and objectives of this chapter are being carried out and, from time to time, recommend directly legislative changes.

(4) Except for associations, approve the salary scale for employees of the institutions of the System, and approve the compensation of the chief executive officer of such institutions.

(5) Coordinate the activities of the banks in making studies of lending standards, including appraisal and credit standards; approve national and district standards, procedures, and appraisal forms; prescribe price and cost levels to be used in such standards, appraisals, and lending; supplement the work of the district under the foregoing where necessary to accomplish the purposes of this chapter.

(6) Prescribe loan security requirements and the types, classes, or number of loans which may be made only with prior approval.

(7) Conduct loan and collateral security review.

(8) Approve the issuance of obligations of the institutions of the System and execute on behalf of the banks consolidated and System-wide obligations for the purpose of funding the authorized operations of the institutions of the System, and prescribe collateral therefor.

(9) Approve interest rates paid by institutions of the System on their bonds, debentures, and similar obligations, the terms and conditions thereof, and interest or other charges made by such institutions to borrowers.

(10) Make investments in stock of the institutions of the System as provided in section 2151 of this title out of the revolving fund, and require the retirement of such stock.

(11) Regulate the borrowing, repayment, and transfer of funds and equities between institutions of the System.

(12) Coordinate and assist in providing services necessary for the convenient, efficient, and effective management of the institutions of the System.

(13) Undertake research into the rural credit needs of the country and ways and means of meeting them and of the funding of the operations of the System in relation to changing farming and economic conditions.

(14) Prepare and disseminate information to the general public on use, organization, and functions of the System and to investors on merits of its securities.

(15) Require surety bonds or other provision for protection of the assets of the institutions of the System against losses occasioned by employees.

(16) Prescribe rules and regulations necessary or appropriate for carrying out the provisions of this chapter.

(17) Exercise such incidental powers as may be necessary or appropriate to fulfill its duties and carry out the purposes of this chapter.

(Pub. L. 92-181, title V, § 5.18, Dec. 10, 1971, 85 Stat. 621.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2221 of this title.

§ 2253. Delegation of duties and powers to institutions of the System

The Farm Credit Administration is authorized and directed by order or rules and regulations, to delegate to a Federal land bank such of the duties, powers, and authority of the Farm Credit Administration with respect to and over a Federal land bank or Federal land bank associations, their officers and employees, in the farm credit district wherein such Federal land bank is located, as may be determined to be in the interest of effective administration; and, in like manner, to delegate to a Federal intermediate credit bank such of the duties, powers, and authority of the Farm Credit Administration with respect to and over a Federal intermediate credit bank or production credit associations, their officers and employees, in the farm credit district wherein such Federal intermediate credit bank is located, as may be determined to be in the interest of effective administration; to authorize the redelegation thereof; and, in either case the duties, powers, and authority so delegated or redelegated shall be performed and exercised under such conditions and requirements and upon such terms as the Farm Credit Administration may specify. Any Federal land bank or Federal intermediate credit bank to which any such duties, powers, or authority may be delegated or any association to which any power may be redelegated, is authorized and empowered to accept, perform, and exercise such duties, powers, and authority as may be so delegated to it.

(Pub. L. 92-181, title V, § 5.19, Dec. 10, 1971, 85 Stat. 622.)

§ 2254. Examinations and reports

Except as provided herein, each institution of the System, and each of their agents, at such times as the Governor of the Farm Credit Administration may determine, shall be examined and audited by farm credit examiners under the direction of an independent chief Farm Credit Administration examiner, but each bank and each production credit association shall be examined and audited not less frequently than once each year. Such examinations shall include objective appraisals of the effectiveness of management and application of policies in carrying out the provisions of this chapter and in servicing all eligible borrowers. If the Governor determines it to be necessary or appropriate, the required examinations and audits may be made by independent certified public accountants, certified by a regulatory authority of a State, and in accordance with generally accepted auditing standards. Upon request of the Governor or any bank of the System, farm credit examiners shall also make examinations and written reports of the condition of any organization, other than national banks, to which, or with which, any institution of the System contemplates making a loan or discounting paper of such organization. For the purposes of this chapter, examiners of the Farm Credit Administration shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act [12 U.S.C. 21 et seq.], the Federal Reserve Act [12 U.S.C. 221 et seq.], the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and other provisions of law and shall have the same powers and privileges as are vested in such examiners by law.

(Pub. L. 92-181, title V, § 5.20, Dec. 10, 1971, 85 Stat. 623.)

REFERENCES IN TEXT

The National Bank Act, the Federal Reserve Act, and the Federal Deposit Insurance Act, referred to in text, are classified generally to chapter 2 (§ 21 et seq.), chapter 3 (§ 221 et seq.), and chapter 16 (§ 1811 et seq.), respectively, of this title. For complete classification of these Acts to the Code, see References in Text note under section 38 of this title, Distribution note under section 226 of this title, and Short Title note under section 1811 of this title, respectively.

§ 2255. Conditions of other banks and lending institutions

The Comptroller of the Currency is authorized and directed, upon request of the Farm Credit Administration to furnish for confidential use of an institution of the System such reports, records, and other information as he may have available relating to the financial condition of national banks through, for, or with which such institution of the System has made or contemplates making discounts or loans and to make such further examination, as may be agreed, of organizations through, for, or with

which such institution of the Farm Credit System has made or contemplates making discounts or loans.

(Pub. L. 92-181, title V, § 5.21, Dec. 10, 1971, 85 Stat. 623.)

§ 2256. Consent to the availability of reports and to examinations

Any organization other than State banks, trust companies, and savings associations shall, as a condition precedent to securing discount privileges with a bank of the Farm Credit System, file with such bank its written consent to examination by farm credit examiners as may be directed by the Farm Credit Administration; and State banks, trust companies, and savings associations may be required in like manner to file a written consent that reports of their examination by constituted State authorities may be furnished by such authorities upon the request of the Farm Credit Administration.

(Pub. L. 92-181, title V, § 5.22, Dec. 10, 1971, 85 Stat. 623.)

§ 2257. Reports on conditions of institutions receiving loans or deposits

The executive departments, boards, commissions, and independent establishments of the Government of the United States, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Reserve banks are severally authorized under such conditions as they may prescribe, upon request of the Farm Credit Administration, to make available to it or to any institution of the System in confidence all reports, records, or other information relating to the condition of any organization to which such institution of the System has made or contemplates making loan or for which it has or contemplates discounting paper, or which it is using or contemplates using as a custodian of securities or other credit instruments, or a depository. The Federal Reserve banks in their capacity as depositories, agents, and custodians for bonds, debentures, and other obligations issued by the banks of the System or book entries thereof are also authorized and directed, upon request of the Farm Credit Administration, to make available for audit by farm credit examiners all appropriate books, accounts, financial records, files, and other papers.

(Pub. L. 92-181, title V, § 5.23, Dec. 10, 1971, 85 Stat. 624.)

§ 2258. Jurisdiction

Each institution of the System shall for the purposes of jurisdiction be deemed to be a citizen of the State, commonwealth, or District of Columbia in which its principal office is located.

(Pub. L. 92-181, title V, § 5.24, Dec. 10, 1971, 85 Stat. 624; Pub. L. 94-184, § 1(b), Dec. 31, 1975, 89 Stat. 1060.)

AMENDMENTS

1975—Pub. L. 94-184 struck out provisions prohibiting district court jurisdiction on the basis of incorporation under this Act or prior Federal law, and prohibiting jurisdiction except in cases by or against the United States or one of its officers, or against a person over whom state courts have no jurisdiction and except in cases by or against a receiver or conservator appointed under this chapter.

§ 2259. State legislation

Whenever it is determined by the Farm Credit Administration, or by judicial decision, that a State law is applicable to the obligations and securities authorized to be held by the institutions of the System under this chapter, which law would provide insufficient protection or inadequate safeguards against loss in the event of default, the Farm Credit Administration may declare such obligations or securities to be ineligible as collateral for the issuance of new notes, bonds, debentures, and other obligations under this chapter.

(Pub. L. 92-181, title V, § 5.25, Dec. 10, 1971, 85 Stat. 624.)

CHAPTER 24—FEDERAL FINANCING BANK

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§ 2281. Congressional findings and declaration of purpose

The Congress finds that demands for funds through Federal and federally assisted borrowing programs are increasing faster than the total supply of credit and that such borrowings are not adequately coordinated with overall Federal fiscal and debt management policies. The purpose of this chapter is to assure coordination of these programs with the overall economic and fiscal policies of the Government, to reduce the cost of Federal and federally assisted borrowings from the public, and to assure that such borrowings are financed in a manner least disruptive of private financial markets and institutions.

(Pub. L. 93-224, § 2, Dec. 29, 1973, 87 Stat. 937.)

EFFECTIVE DATE

Section 20 of Pub. L. 93-224 provided that: "This Act [enacting this chapter and amending section 24 of this title] becomes effective upon the date of its enactment [Dec. 29, 1973], except that section 7 [section 2286 of this title] becomes effective upon the expiration of thirty days after such date [Dec. 29, 1973]."

SHORT TITLE

Section 1 of Pub. L. 93-224 provided: "That this Act [enacting this chapter and amending section 24 of this title] may be cited as the 'Federal Financing Bank Act of 1973'."

SEPARABILITY OF PROVISIONS

Section 19 of Pub. L. 93-224 provided that: "If any provision of this Act [enacting this chapter and amending section 24 of this title], or the application thereof to any person or circumstance, is held invalid, the validity of the remainder of the Act [this chapter], and the application of such provisions to other persons or circumstances, shall not be affected."

EX. ORD. NO. 11782. FEDERAL FINANCING BANK ADVISORY COUNCIL

Ex. Ord. No. 11782, May 6, 1974, 39 F.R. 15991, provided:

By virtue of the authority vested in me as President of the United States of America, it is hereby ordered as follows:

SECTION 1. There is hereby established the Federal Financing Bank Advisory Council. The Council shall consist of:

(1) The Secretary of the Treasury (Chairman).
(2) The Secretary of Agriculture.
(3) The Secretary of Commerce.
(4) The Secretary of Health, Education, and Welfare.
(5) The Secretary of Housing and Urban Development.
(6) The Secretary of Transportation.
(7) The President of the Export-Import Bank of the United States.
(8) The Postmaster General.

SEC. 2. The Council shall provide advise and assistance to the Board of Directors of the Federal Financing Bank established by the Federal Financing Bank Act of 1973 (Public Law 93-224; 87 Stat. 937) [this chapter] concerning the administration of that act. It shall also serve as a coordinating forum to insure a broader understanding of, and support for, the Bank.

SEC. 3. The Department of the Treasury shall, to the extent permitted by law, provide administrative support for the Council.

RICHARD NIXON.

TERMINATION OF ADVISORY COUNCILS

Advisory Councils established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a council established by the Congress, its duration is otherwise provided for by law, see sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 2282. Definitions

For the purposes of this chapter—

(1) The term "Federal agency" means an executive department, an independent Federal establishment, or a corporation or other entity established by the Congress which is owned in whole or in part by the United States.

(2) The term "obligation" means any note, bond, debenture, or other evidence of indebtedness, but does not include Federal Reserve notes or stock evidencing an ownership interest in the issuing Federal agency.

(3) The term "guarantee" means any guarantee, insurance, or other pledge with respect to the payment of all or part of the principal or interest on any obligation, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions, or any guarantee or pledge arising out of a statutory obligation to insure such deposits, shares, or other withdrawable accounts.

(4) The term "Bank" means the Federal Financing Bank established by section 2283 of this title.

(Pub. L. 93-224, § 3, Dec. 29, 1973, 87 Stat. 937.)

§ 2283. Creation of Federal Financing Bank

There is hereby created a body corporate to be known as the Federal Financing Bank, which shall have succession until dissolved by an Act of Congress. The Bank shall be subject to the general supervision and direction of the Secretary of the Treasury. The Bank shall be an instrumentality of the United States Government and shall maintain such offices as may be necessary or appropriate in the conduct of its business.

(Pub. L. 93-224, § 4, Dec. 29, 1973, 87 Stat. 937.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2282 of this title.

§ 2284. Board of Directors

(a) The Bank shall have a Board of Directors consisting of five persons, one of whom shall be the Secretary of the Treasury as Chairman of the Board, and four of whom shall be appointed by the President from among the officers or employees of the Bank or of any Federal agency. The Chairman and each other member of the Board may designate some other officer or employee of the Government to serve in his place.

(b) The Board of Directors shall meet at the call of its Chairman. The Board shall determine the general policies which shall govern the operations of the Bank. The Chairman of the Board shall select and effect the appointment of qualified persons to fill such offices as may be provided for in the bylaws, and such persons

shall be the executive officers of the Bank and shall discharge such executive functions, powers, and duties as may be provided for in the bylaws or by the Board of Directors. The members of the Board and their designees shall not receive compensation for their services on the Board.

(Pub. L. 93-224, § 5, Dec. 29, 1973, 87 Stat. 937.)

§ 2285. Functions

(a) Purchase and sale of obligations issued, sold, or guaranteed by Federal agencies

The Bank is authorized to make commitments to purchase and sell, and to purchase and sell on terms and conditions determined by the Bank, any obligation which is issued, sold, or guaranteed by a Federal agency. Any Federal agency which is authorized to issue, sell, or guarantee any obligation is authorized to issue or sell such obligations directly to the Bank.

(b) Yield

Any purchase by the Bank shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury taking into consideration (1) the current average yield on outstanding marketable obligations of the United States of comparable maturity, or (2) whenever the Bank's own obligations outstanding are sufficient, the current average yield on outstanding obligations of the Bank of comparable maturity.

(c) Fees

The Bank is authorized to charge fees for its commitments and other services adequate to cover all expenses and to provide for the accumulation of reasonable contingency reserves.

(Pub. L. 93-224, § 6, Dec. 29, 1973, 87 Stat. 938.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2290, 2294 of this title.

§ 2286. Approval of financing plans by Secretary of the Treasury

(a) Method, source, timing, terms, and conditions of sale of obligations issued or sold by Federal agencies

To insure the orderly and coordinated marketing of Treasury and Federal agency obligations and appropriate financing planning with respect thereto, and to facilitate the effective financing of programs authorized by law subject to the applicable provisions of such law, the prior approval of the Secretary of the Treasury shall be required with respect to—

(1) the method of financing,

(2) the source of financing,

(3) the timing of financing in relation to market conditions and financing by other Federal agencies, and

(4) the financing terms and conditions, including rates of interest and maturities,

of obligations issued or sold by any Federal agency; except that the approval of the Secretary of the Treasury shall not be required with respect to (A) obligations issued or sold pursuant to an Act of Congress which expressly prohibits any guarantee of such obligations by the United States, and (B) obligations issued or sold by the Farmers Home Administration.

(b) Grant or denial of approval by Secretary

Upon receipt of a request from a Federal agency for his approval under subsection (a) of this section, the Secretary of the Treasury shall act promptly either to grant his approval or to advise the agency of the reasons for withholding his approval. In no case shall the Secretary of the Treasury withhold such approval for a period longer than sixty days unless, prior to the end of such period, he submits to the Congress a detailed explanation of his reasons for so doing. In no case shall the Secretary withhold such approval for a period longer than one hundred and twenty days. To the maximum extent practicable, withholdings of approval shall be made in a manner which is not disproportionately detrimental to the functioning of any particular type of Federal program. Expedited treatment shall be accorded in any case in which the Federal agency advises the Secretary of the Treasury that unusual circumstances require such treatment.

(c) Time and form for submission of financing plans

Federal agencies subject to this section shall submit financing plans to the Secretary of the Treasury at such times and in such forms as he shall prescribe.

(Pub. L. 93-224, § 7, Dec. 29, 1973, 87 Stat. 938.)

EFFECTIVE DATE

Section effective upon expiration of 30 days after Dec. 29, 1973, see section 20 of Pub. L. 93-224, set out as a note under section 2281 of this title.

§ 2287. Initial capital

The Secretary of the Treasury is authorized to advance the funds necessary to provide initial capital to the Bank. Each such advance shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. Interest payments on such advances may be deferred, at the discretion of the Secretary, but any such deferred payments shall themselves bear interest at the rate specified in this section. There is authorized to be appropriated not to exceed $100,000,000, which shall be available for the purposes of this section without fiscal year limitation.

(Pub. L. 93-224, § 8, Dec. 29, 1973, 87 Stat. 939.)

§ 2288. Bank obligations

(a) Maximum amount of obligations issued publicly and outstanding at any one time

The Bank is authorized, with the approval of the Secretary of the Treasury, to issue publicly and have outstanding at any one time not in excess of $15,000,000,000, or such additional amounts as may be authorized in appropriations Acts, of obligations having such maturities and bearing such rate or rates of interest as may be determined by the Bank. Such obligations may be redeemable at the option of the Bank before maturity in such manner as may be stipulated therein. So far as is feasible, the

debt structure of the Bank shall be commensurate with its asset structure.

(b) Purchase and sale of obligations of Federal Financing Bank by Secretary of the Treasury as public debt transactions

The Bank is also authorized to issue its obligations to the Secretary of the Treasury and the Secretary of the Treasury may in his discretion purchase or agree to purchase any such obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(c) Authority of Federal Financing Bank to require Secretary of the Treasury to purchase obligations of the Bank.

The Bank may require the Secretary of the Treasury to purchase obligations of the Bank issued pursuant to subsection (b) of this section in such amounts as will not cause the holding by the Secretary of the Treasury resulting from such required purchases to exceed $5,000,000,000 at any one time. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Bank in excess of such amount.

(d) Bank obligations as lawful investments

Obligations of the Bank issued pursuant to this section shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States, or any agency or instrumentality of any of the foregoing, or any officer or officers thereof.

(Pub. L. 93-224, § 9, Dec. 29, 1973, 87 Stat. 939.)

REFERENCES IN TEXT

The Second Liberty Bond Act, referred to in subsec. (b), is act Sept. 24, 1917, ch. 56, 40 Stat. 288. For classification of this Act to the Code, see References in Text note set out under section 774 of Title 31, Money and Finance, and Tables volume.

§ 2289. General powers

The Bank shall have power—

(1) to sue and be sued, complain, and defend, in its corporate name;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this chapter in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use, or otherwise deal in and with any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the Bank;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to define their duties, to fix and to pay such compensation for their services as may be determined, subject to the civil service and classification laws, to require bonds for them and pay the premium thereof;

(9) to enter into contracts, to execute instruments to incur liabilities, and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business;

(10) to act through any corporate or other agency or instrumentality of the United States, and to utilize the services thereof on a reimbursable basis, and any such agency or instrumentality is authorized to provide services as requested by the Bank; and

(11) to determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to Government corporations.

(Pub. L. 93-224, § 10, Dec. 29, 1973, 87 Stat. 940.)

REFERENCES IN TEXT

The civil service laws, referred to in item (8), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

The classification laws, referred to in item (8), are classified to chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5, Government Organization and Employees.

§ 2290. Exemptions

(a) Federal, State, and local taxes

The Bank, its property, its franchise, capital, reserves, surplus, security holdings, and other funds, and its income shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (1) any real property and any tangible personal property of the Bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any obligations issued by the Bank shall be subject to

Federal taxation to the same extent as the obligations of private corporations are taxed.

(b) Exempt securities

All obligations issued by the Bank pursuant to this chapter shall be deemed to be exempted securities within the meaning of sections 77c(a)(2), 77ddd(a)(4), and 78c(a)(12) of title 15.

(c) Budget status of federal agencies; restrictions

Nothing herein shall affect the budget status of the Federal agencies selling obligations to the Bank under section 2285(a) of this title, or the method of budget accounting for their transactions. The receipts and disbursements of the Bank in the discharge of its functions shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

(Pub. L. 93-224, § 11, Dec. 29, 1973, 87 Stat. 940.)

§ 2291. Preparation of obligations

In order to furnish obligations for delivery by the Bank, the Secretary of the Treasury is authorized to prepare such obligations in such form as the Bank may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the Bank. The engraved plates, dies, bed pieces, and other material executed in connection therewith, shall remain in the custody of the Secretary of the Treasury. The Bank shall reimburse the Secretary of the Treasury for any expenditures made in preparation, custody, and delivery of such obligations.

(Pub. L. 93-224, § 12, Dec. 29, 1973, 87 Stat. 941.)

§ 2292. Annual report to the President and Congress

The Bank shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

(Pub. L. 93-224, § 13, Dec. 29, 1973, 87 Stat. 941.)

§ 2293. Budget and audit provisions of Government Corporation Control Act applicable

The budget and audit provisions of the Government Corporation Control Act [31 U.S.C. 841 et seq.] shall be applicable to the Federal Financing Bank in the same manner as they are applied to the wholly owned Government corporations named in section 101 of such Act (31 U.S.C. 846).

(Pub. L. 93-224, § 15, Dec. 29, 1973, 87 Stat. 941.)

REFERENCES IN TEXT

The Government Corporation Control Act, referred to in text, is classified to chapter 14 (§ 841 et seq.) of Title 31, Money and Finance.

§ 2294. Payments on behalf of public bodies

(a) Notwithstanding any other provision of this chapter, the purchase by the Bank of the obligations of any local public body or agency within the United States shall be made upon such terms and conditions as may be necessary to avoid an increase in borrowing costs to such local public body or agency as a result of the purchase by the Bank of its obligations. The head of the Federal agency guaranteeing such obligations, in consultation with the Secretary of the Treasury, shall estimate the borrowing costs that would be incurred by the local public body or agency if its obligations were not sold to the Bank.

(b) The Federal agency guaranteeing obligations purchased by the Bank may contract to make periodic payments to the Bank which shall be sufficient to offset the costs to the Bank of purchasing obligations of local public bodies or agencies upon terms and conditions as prescribed in this section rather than as prescribed by section 2285 of this title. Such contracts may be made in advance of appropriations therefor, and appropriations for making payments under such contracts are hereby authorized.

(Pub. L. 93-224, § 16, Dec. 29, 1973, 87 Stat. 941.)

§ 2295. Authority or responsibility under other provisions of law not to be affected or impaired

Nothing in this chapter shall be construed as impairing any authority or responsibility of the President or the Secretary of the Treasury under any other provision of law, nor shall anything in this chapter affect in any manner any provision of law concerning the right of any Federal agency to sell obligations to the Secretary of the Treasury or the authority or responsibility of the Secretary of the Treasury to purchase such obligations.

(Pub. L. 93-224, § 17, Dec. 29, 1973, 87 Stat. 942.)

§ 2296. Increase not authorized in amounts of obligations issued, sold, or guaranteed by Federal agencies

Nothing in this chapter shall be construed as authorizing an increase in the amounts of obligations issued, sold, or guaranteed by any Federal agency which issues, sells, or guarantees obligations purchased by the Bank.

(Pub. L. 93-224, § 18, Dec. 29, 1973, 87 Stat. 942.)

CHAPTER 25—NATIONAL COMMISSION ON ELECTRONIC FUND TRANSFERS

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§ 2401. Establishment of Commission

There is established the National Commission on Electronic Fund Transfers (hereinafter referred to as the "Commission") which shall be an independent instrumentality of the United States.

(Pub. L. 93-495, title II, § 201, Oct. 28, 1974, 88 Stat. 1508.)

§ 2402. Membership of Commission

(a) Composition

The Commission shall be composed of twenty-six members as follows:

(1) the Chairman of the Board of Governors of the Federal Reserve System or his delegate;

(2) the Attorney General or his delegate;

(3) the Comptroller of the Currency or his delegate;

(4) the Chairman of the Federal Home Loan Bank Board or his delegate;

(5) the Administrator of the National Credit Union Administration or his delegate;

(6) the Chairman of the Board of Directors of the Federal Deposit Insurance Corporation or his delegate;

(7) the Chairman of the Federal Communications Commission or his delegate;

(8) the Postmaster General or his delegate;

(9) the Secretary of the Treasury or his delegate;

(10) the Chairman of the Federal Trade Commission or his delegate;

(11) two individuals, appointed by the President, one of whom is an official of a State agency which regulates banking, or similar financial institutions, and one of whom is an official of a State agency which regulates thrift or similar financial institutions;

(12) seven individuals, appointed by the President, who are officers or employees of, or who otherwise represent banking, thrift, or other business entities, including one representative each of commercial banks, mutual savings banks, savings and loan associations, credit unions, retailers, nonbanking institutions offering credit card services, and organizations providing interchange services for credit cards issued by banks;

(13) five individuals, appointed by the President, from private life who are not affiliated with, do not represent and have no substantial interest in any banking, thrift, or other financial institution, including but not limited to credit unions, retailers, and insurance companies;

(14) the Comptroller General of the United States or his delegate; and

(15) the Director of the Office of Technology Assessment.

(b) Designation of Chairperson

The Chairperson shall be designated by the President at the time of his appointment from among the members of the Commission and such selection shall be by and with the advice and consent of the Senate unless the appointee holds an office to which he was appointed by and with the advice and consent of the Senate.

(c) Vacancies

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(Pub. L. 93-495, title II, § 202, Oct. 28, 1974, 88 Stat. 1508.)

§ 2403. Functions of Commission

(a) Study, investigation, and recommendations; considerations

The Commission shall conduct a thorough study and investigation and recommend appropriate administrative action and legislation necessary in connection with the possible development of public or private electronic fund transfer systems, taking into account, among other things—

(1) the need to preserve competition among the financial institutions and other business enterprises using such a system;

(2) the need to promote competition among financial institutions and to assure Government regulation and involvement or participation in a system competitive with the private sector be kept to a minimum;

(3) the need to prevent unfair or discriminatory practices by any financial institution or business enterprise using or desiring to use such a system;

(4) the need to afford maximum user and consumer convenience;

(5) the need to afford maximum user and consumer rights to privacy and confidentiality;

(6) the impact of such a system on economic and monetary policy;

(7) the implications of such a system on the availability of credit;

(8) the implications of such a system expanding internationally and into other forms of electronic communications; and

(9) the need to protect the legal rights of users and consumers.

(b) Interim and final reports; submission dates; transmittal of final report to President and Congress; contents; availability to public; termination date of Commission

The Commission shall make an interim report within one year of the date of the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson and at such other times as it deems advisable and shall transmit to the President and to the Congress not later than two years after the date of the confirmation by the

Senate of the Chairperson or the appointment by the President of an acting Chairperson, a final report of its findings and recommendations. Any such report shall include all hearing transcripts, staff studies, and other material used in preparation of the report. The interim and final reports shall be made available to the public upon transmittal. Sixty days after transmission of its final report the Commission shall cease to exist.

(c) Clearance by Federal agencies prior to transmittal of interim or final report

The Commission shall not be required to obtain the clearance of any Federal agency prior to the transmittal of any interim or final report.

(Pub. L. 93-495, title II, § 203, Oct. 28, 1974, 88 Stat. 1508; Pub. L. 94-200, title II, § 201, Dec. 31, 1975, 89 Stat. 1124.)

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-200 changed the time for submission of interim and final reports from one year of the Commission's findings and recommendations and two years after Oct. 28, 1974 to one year and two years respectively after the confirmation by the Senate of the Chairperson or the appointment by the President of an acting Chairperson.

§ 2404. Powers of Commission

(a) Hearings; administration of oaths

The Commission may for the purpose of carrying out this chapter hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths of[1] affirmations to witnesses appearing before it.

(b) Implementation authority of members or agents of Commission

When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) Request for information from other Federal departments or agencies

The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this chapter. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Issuance of subpenas for attendance of witnesses and production of evidence; refusal to obey; contempt proceedings; manner of service of subpenas; service of process

(1) The Commission shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

(2) If a person issued a subpena under paragraph (1) refuses to obey such subpena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(3) The subpenas of the Commission shall be served in the manner provided for subpenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

(4) All process of any court to which application may be made under this section may be served in the judicial district wherein the person required to be served resides or may be found.

(Pub. L. 93-495, title II, § 204, Oct. 28, 1974, 88 Stat. 1509.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c) was, in the original, "this Act" meaning Pub. L. 93-495, which enacted this chapter. For complete classification of this Act in the Code, see Tables volume.

§ 2405. Executive Director and additional staff personnel; appointment and compensation; experts and consultants; employment and compensation; audits by Comptroller General

(a) The Commission—

(1) may appoint with the advice and consent of the Senate and fix the compensation of an Executive Director, and such additional staff personnel as he deems necessary, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) may procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, but at rates not to exceed $150 a day for individuals.

(b) The Comptroller General is authorized to make detailed audits of the books and records of the Commission, and shall report the results of any such audit to the Commission and to the Congress.

(Pub. L. 93-495, title II, § 205, Oct. 28, 1974, 88 Stat. 1510.)

§ 2406. Compensation of members of Commission

(a) A member of the Commission who is an officer or employee of the United States shall serve as a member of the Commission without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(b) A member of the Commission who is not otherwise an officer or employee of the United States shall be compensated at a rate of $150 per day when engaged in the performance of

[1] So in original. Probably should be "or".

his duties as a member of the Commission, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(Pub. L. 93-495, title II, § 206, Oct. 28, 1974, 88 Stat. 1510.)

§ 2407. Cooperation and assistance of other Federal departments, agencies, and instrumentalities

(a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request, such data, reports, and other information as the Commission deems necessary to carry out its functions under this chapter.

(b) The head of any department, agency, or instrumentality of the United States may detail such personnel and may furnish such services, with or without reimbursement, as the Commission may request to assist it in carrying out its functions.

(Pub. L. 93-495, title II, § 207, Oct. 28, 1974, 88 Stat. 1510.)

§ 2408. Authorization of appropriations

There are authorized to be appropriated without fiscal year limitations such sums, not to exceed $2,000,000, as may be necessary to carry out the provisions of this chapter.

(Pub. L. 93-495, title II, § 208, Oct. 28, 1974, 88 Stat. 1511.)

CHAPTER 26—DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

Sec.
2501. Congressional findings and declaration of purpose.
2502. Definitions.
2503. State entitlement to escheat or custody.

§ 2501. Congressional findings and declaration of purpose

The Congress finds and declares that—

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

(Pub. L. 93-495, title VI, § 601, Oct. 28, 1974, 88 Stat. 1525.)

APPLICABILITY TO SUMS PAYABLE ON MONEY ORDERS, ETC., DEEMED ABANDONED ON OR AFTER FEBRUARY 1, 1965; EXCEPTION

Section 604 of Pub. L. 93-495 provided that: "This title [enacting this chapter] shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974."

§ 2502. Definitions

As used in this chapter—

(1) "banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;

(2) "business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(3) "financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.

(Pub. L. 93-495, title VI, § 602, Oct. 28, 1974, 88 Stat. 1525.)

§ 2503. State entitlement to escheat or custody

Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organizations or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the es-

cheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

(Pub. L. 93-495, title VI, § 603, Oct. 28, 1974, 88 Stat. 1525.)

CHAPTER 27—REAL ESTATE SETTLEMENT PROCEDURES

Sec.
2601. Congressional findings and purpose.
2602. Definitions.
2603. Uniform settlement statement.
2604. Special information booklets.
(a) Distribution by Secretary to lenders to help borrowers.
(b) Form and detail; cost elements, standard settlement form, escrow accounts, selection of persons for settlement services; consideration of differences in settlement procedures.
(c) Estimate of charges.
(d) Distribution by lenders to loan applicants at time of receipt or preparation of applications.
(e) Printing and distribution by lenders of booklets approved by Secretary.
2605, 2606. Repealed.
2607. Prohibition against kickbacks and unearned fees.
(a) Business referrals.
(b) Splitting charges.
(c) Fees, salaries, compensation, or other payments.
(d) Penalties for violations; joint and several liability; treble damages; court costs; attorney fees.
2608. Title companies; liability of seller.
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2612. Report of Secretary on necessity for further Congressional action.
(a) Administrative consultations; study, investigation, and hearings; time of submission.
(b) Scope of report; specific practices or problems and corrective measures; cost burden for real estate settlement services; Federal regulation of charges and regulatory scheme; local government recordation of land title information and Federal assistance for development of a model system.
2613. Demonstration to determine feasibility of including statements of settlement costs in special information booklets; report to Congress.
2614. Jurisdiction of courts; limitations.
2615. Contracts and liens; validity.
2616. State laws unaffected; inconsistent Federal and State provisions.
2617. Authority of Secretary.

§ 2601. Congressional findings and purpose

(a) The Congress finds that significant reforms in the real estate settlement process are needed to insure that consumers throughout the Nation are provided with greater and more timely information on the nature and costs of the settlement process and are protected from unnecessarily high settlement charges caused by certain abusive practices that have developed in some areas of the country. The Congress also finds that it has been over two years since the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs submitted their joint report to the Congress on "Mortgage Settlement Costs" and that the time has come for the recommendations for Federal legislative action made in that report to be implemented.

(b) It is the purpose of this chapter to effect certain changes in the settlement process for residential real estate that will result—

(1) in more effective advance disclosure to home buyers and sellers of settlement costs;

(2) in the elimination of kickbacks or referral fees that tend to increase unnecessarily the costs of certain settlement services;

(3) in a reduction in the amounts home buyers are required to place in escrow accounts established to insure the payment of real estate taxes and insurance; and

(4) in significant reform and modernization of local recordkeeping of land title information.

(Pub. L. 93-533, § 2, Dec. 22, 1974, 88 Stat. 1724.)

References in Text

This chapter, referred to in subsec. (b), was in the original "this Act", meaning the Real Estate Settlement Procedures Act of 1974. For classification of this Act to the Code, see Short Title note under this section.

Effective Date

Section 20, formerly 19, of Pub. L. 93-533, as renumbered by Pub. L. 94-205, § 10, Jan. 2, 1976, 89 Stat. 1159, provided that: "The provisions of this Act, and the amendments made thereby [see Short Title note set out hereunder], shall become effective one hundred and eighty days after the date of the enactment of this Act [Dec. 22, 1974]."

Short Title of 1976 Amendment

Section 1 of Pub. L. 94-205, Jan. 2, 1976, 89 Stat. 1157, provided: "That this Act [enacting section 2617 of this title, amending sections 2601 note, 2602, 2603, 2604, 2607, 2609 and 2616 of this title and section 1631 of Title 15, Commerce and Trade, repealing sections 2605 and 2606 of this title, and enacting provisions set out as a note under section 2602 of this title] may be cited as the 'Real Estate Settlement Procedures Act Amendments of 1975'."

Short Title

Section 1 of Pub. L. 93-533 provided that: "This Act [which enacted this chapter and sections 1730f and 1831b of this title and enacted provisions set out as notes under this section and section 1730f of this title] may be cited as the 'Real Estate Settlement Procedures Act of 1974'."

§ 2602. Definitions

For purposes of this chapter—

(1) the term "federally related mortgage loan" includes any loan (other than tempo-

rary financing such as a construction loan) which—

(A) is secured by a first lien on residential real property (including individual units of condominiums and cooperatives) designed principally for the occupancy of from one to four families; and

(B)(i) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is regulated by any agency of the Federal Government, or

(ii) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary or a housing or related program administered by any other such officer or agency; or

(iii) is intended to be sold by the originating lender to the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a financial institution from which it is to be purchased by the Federal Home Loan Mortgage Corporation; or

(iv) is made in whole or in part by any "creditor", as defined in section 1602(f) of title 15, who makes or invests in residential real estate loans aggregating more than $1,000,000 per year, except that for the purpose of this chapter, the term "creditor" does not include any agency or instrumentality of any State;

(2) the term "thing of value" includes any payment, advance, funds, loan, service, or other consideration;

(3) the term "Settlement services" includes any service provided in connection with a real estate settlement including, but not limited to, the following: title searches, title examinations, the provision of title certificates, title insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest and fungus inspections, services rendered by a real estate agent or broker, and the handling of the processing, and closing or settlement;

(4) the term "title company" means any institution which is qualified to issue title insurance, directly or through its agents, and also refers to any duly authorized agent of a title company;

(5) the term "person" includes individuals, corporations, associations, partnerships, and trusts; and

(6) the term "Secretary" means the Secretary of Housing and Urban Development.

(Pub. L. 93-533, § 3, Dec. 22, 1974, 88 Stat. 1724; Pub. L. 94-205, § 2, Jan. 2, 1976, 89 Stat. 1157.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning the Real Estate Settlement Procedures Act of 1974. For classification of this Act to the Code, see Short Title note under section 2601 of this title.

AMENDMENTS

1976—Par. (1). Pub. L. 94-205, § 2(1), inserted "(other than temporary financing such as a construction loan)" following "includes any loan" in the provision preceding subpar. (A).

Par. (1)(A). Pub. L. 94-205, § 2(2), inserted "a first lien on" following "is secured by".

Par. (1)(B)(iii). Pub. L. 94-205, § 2(3)-(5), substituted "is intended to be sold by the originating lender to" for "is eligible for purchase by" and "a" and "is to" for "from any" and "could", respectively, and deleted "or" following "the Government National Mortgage Association".

Par. (1)(B)(iv). Pub. L. 94-205, § 2(6), inserted ", except that for the purpose of this chapter, the term 'creditor' does not include any agency or instrumentality of any State" following "more than $1,000,000 per year".

EFFECTIVE DATE OF 1976 AMENDMENT

Section 12 of Pub. L. 94-205 provided that: "The provisions of this Act and the amendments made hereby [enacting section 2617 of this title, amending this section and sections 2601 note, 2603, 2604, 2607, 2609, and 2616 of this title and section 1631 of Title 15, Commerce and Trade, repealing sections 2605 and 2606 of this title, and enacting provisions set out as a note under section 2601 of this title] shall become effective upon enactment [Jan. 2, 1976]. The Secretary may suspend for up to one hundred and eighty days from the date of enactment of this Act [Jan. 2, 1976] any provision of section 4 and section 5 of the Real Estate Settlement Procedures Act of 1974 [sections 2603 and 2604 of this title], as amended by this Act."

§ 2603. Uniform settlement statement

(a) The Secretary, in consultation with the Administrator of Veteran's Affairs, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, shall develop and prescribe a standard form for the statement of settlement costs which shall be used (with such variations as may be necessary to reflect differences in legal and administrative requirements or practices in different areas of the country) as the standard real estate settlement form in all transactions in the United States which involve federally related mortgage loans. Such form shall conspicuously and clearly itemize all charges imposed upon the borrower and all charges imposed upon the seller in connection with the settlement and shall indicate whether any title insurance premium included in such charges covers or insures the lender's interest in the property, the borrower's interest, or both. The Secretary may, by regulation, permit the deletion from the form prescribed under this section of items which are not, under local laws or customs, applicable in any locality, except that such regulation shall require that the numerical code prescribed by the Secretary be retained in forms to be used in all localities. Nothing in this section may be construed to require that that part of the standard form which relates to the borrower's transaction be furnished to the seller, or to require that that part of the standard form which relates to the seller be furnished to the borrower.

(b) The form prescribed under this section shall be completed and made available for inspection by the borrower at or before settlement by the person conducting the settlement, except that (1) the Secretary may exempt from the requirements of this section settlements occurring in localities where the final settlement

statement is not customarily provided at or before the date of settlement, or settlements where such requirements are impractical and (2) the borrower may, in accordance with regulations of the Secretary, waive his right to have the form made available at such time. Upon the request of the borrower to inspect, the form prescribed under this section during the business day immediately preceding the day of settlement, the person who will conduct the settlement shall permit the borrower to inspect those items which are known to such person during such preceding day.

(Pub. L. 93-533, § 4, Dec. 22, 1974, 88 Stat. 1725; Pub. L. 94-205, § 3, Jan. 2, 1976, 89 Stat. 1157.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-205, § 3(1)-(3) designated existing provisions as subsec. (a) and in subsec. (a) as so designated deleted "minimum" following "with such" and "unavoidable" following "necessary to reflect" in the parenthetical provisions covering allowable regional variations in the uniform settlement statement, and substituted provisions authorizing the Secretary to permit deletions from the standard form for provisions requiring that the standard form contain all the information and data required under the Truth in Lending Act.

Subsec. (b). Pub. L. 94-205, § 3(4), added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, with the Secretary authorized to suspend for up to 180 days from Jan. 2, 1976, any provision of this section as amended by Pub. L. 94-205, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2604, 2610 of this title.

§ 2604. Special information booklets

(a) Distribution by Secretary to lenders to help borrowers

The Secretary shall prepare and distribute booklets to help persons borrowing money to finance the purchase of residential real estate better to understand the nature and costs of real estate settlement services. The Secretary shall distribute such booklets to all lenders which make federally related mortgage loans.

(b) Form and detail; cost elements, standard settlement form, escrow accounts, selection of persons for settlement services; consideration of differences in settlement procedures

Each booklet shall be in such form and detail as the Secretary shall prescribe and, in addition to such other information as the Secretary may provide, shall include in clear and concise language—

(1) a description and explanation of the nature and purpose of each cost incident to a real estate settlement;

(2) an explanation and sample of the standard real estate settlement form developed and prescribed under section 2603 of this title;

(3) a description and explanation of the nature and purpose of escrow accounts when used in connection with loans secured by residential real estate;

(4) an explanation of the choices available to buyers of residential real estate in selecting persons to provide necessary services incident to a real estate settlement; and

(5) an explanation of the unfair practices and unreasonable or unnecessary charges to be avoided by the prospective buyer with respect to a real estate settlement.

Such booklets shall take into consideration differences in real estate settlement procedures which may exist among the several States and territories of the United States and among separate political subdivisions within the same State and territory.

(c) Estimate of charges

Each lender shall include with the booklet a good faith estimate of the amount or range of charges for specific settlement services the borrower is likely to incur in connection with the settlement as prescribed by the Secretary.

(d) Distribution by lenders to loan applicants at time of receipt or preparation of applications

Each lender referred to in subsection (a) of this section shall provide the booklet described in such subsection to each person from whom it receives or for whom it prepares a written application to borrow money to finance the purchase of residential real estate. Such booklet shall be provided at the time of receipt or preparation of such application.

(e) Printing and distribution by lenders of booklets approved by Secretary

Booklets may be printed and distributed by lenders if their form and content are approved by the Secretary as meeting the requirements of subsection (b) of this section.

(Pub. L. 93-533, § 5, Dec. 22, 1974, 88 Stat. 1725; Pub. L. 94-205, § 4, Jan. 2, 1976, 89 Stat. 1158.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-205, § 4(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 94-205, § 4(1), (3), (4), redesignated subsec. (c) as (d) and in subsec. (d) as so redesignated substituted "or for whom it prepares a written application" for "an application" and inserted "or preparation" following "receipt".

Subsec. (e). Pub. L. 94-205, § 4(1), redesignated subsec. (d) as (e).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, with the Secretary authorized to suspend for up to 180 days from Jan. 2, 1976, any provision of this section as amended by Pub. L. 94-205, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2613 of this title.

§§ 2605, 2606. Repealed. Pub. L. 94-205, §§ 5, 6, Jan. 2, 1976, 89 Stat. 1158

Section 2605, Pub. L. 93-533, § 6, Dec. 22, 1974, 88 Stat. 1726, related to advanced itemized disclosure of settlement costs by the lender and liability of the lender for failure to comply.

Section 2606, Pub. L. 93-533, § 7, Dec. 22, 1974, 88 Stat. 1727, related to the seller or his agent confirming that information concerning an existing residence was disclosed to the buyer in writing before a commitment for a mortgage loan was made.

EFFECTIVE DATE OF REPEAL

Repeal of sections by Pub. L. 94-205 effective Jan. 2, 1976, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

§ 2607. Prohibition against kickbacks and unearned fees

(a) Business referrals

No person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.

(b) Splitting charges

No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service in connection with a transaction involving a federally related mortgage loan other than for services actually performed.

(c) Fees, salaries, compensation, or other payments

Nothing in this section shall be construed as prohibiting (1) the payment of a fee (A) to attorneys at law for services actually rendered or (B) by a title company to its duly appointed agent for services actually performed in the issuance of a policy of title insurance or (C) by a lender to its duly appointed agent for services actually performed in the making of a loan, (2) the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed, or (3) payments pursuant to cooperative brokerage and referral arrangements or agreements between real estate agents and brokers, or (4) such other payments or classes of payments or other transfers as are specified in regulations prescribed by the Secretary, after consultation with the Attorney General, the Administrator of Veterans' Affairs, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Secretary of Agriculture.

(d) Penalties for violations; joint and several liability: treble damages; court costs; attorney fees

(1) Any person or persons who violate the provisions of this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(2) In addition to the penalties provided by paragraph (1) of this subsection, any person or persons who violate the provisions of subsection (a) of this section shall be jointly and severally liable to the person or persons whose business has been referred in an amount equal to three times the value or amount of the fee or thing of value, and any person or persons who violate the provisions of subsection (b) of this section shall be jointly and severally liable to the person or persons charged for the settlement services involved in an amount equal to three times the amount of the portion, split, or percentage. In any successful action to enforce the liability under this paragraph, the court may award the court costs of the action together with a reasonable attorney's fee as determined by the court.

(Pub. L. 93-533, § 8, Dec. 22, 1974, 88 Stat. 1727; Pub. L. 94-205, § 7, Jan. 2, 1976, 89 Stat. 1158.)

AMENDMENTS

1976—Subsec. (c). Pub. L. 94-205 added cls. (3) and (4).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2614 of this title.

§ 2608. Title companies; liability of seller

(a) No seller of property that will be purchased with the assistance of a federally related mortgage loan shall require directly or indirectly, as a condition to selling the property, that title insurance covering the property be purchased by the buyer from any particular title company.

(b) Any seller who violates the provisions of subsection (a) of this section shall be liable to the buyer in an amount equal to three times all charges made for such title insurance.

(Pub. L. 93-533, § 9, Dec. 22, 1974, 88 Stat. 1728.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2614 of this title.

§ 2609. Limitation on requirement of advance deposits in escrow accounts

A lender, in connection with a federally related mortgage loan, may not require the borrower or prospective borrower—

(1) to deposit in any escrow account which may be established in connection with such loan for the purpose of assuring payment of taxes, insurance premiums, or other charges with respect to the property, in connection with the settlement, an aggregate sum (for such purpose) in excess of a sum that will be sufficient to pay such taxes, insurance premiums and other charges attributable to the period beginning on the last date on which each such charge would have been paid under the normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice, and ending on the due date of its first full installment payment under the mortgage, plus one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period; or

(2) to deposit in any such escrow account in any month beginning with the first full installment payment under the mortgage a sum (for the purpose of assuring payment of taxes, insurance premiums and other charges with respect to the property) in excess of the sum of (A) one-twelfth of the total amount of the estimated taxes, insurance premiums and other charges which are reasonably anticipated to be paid on dates during the ensuing twelve months which dates are in accordance with the normal lending practice of the

lender and local custom, provided that the selection of each such date constitutes prudent lending practice, plus (B) such amount as is necessary to maintain an additional balance in such escrow account not to exceed one-sixth of the estimated total amount of such taxes, insurance premiums and other charges to be paid on dates, as provided above, during the ensuing twelve-month period: *Provided, however,* That in the event the lender determines there will be or is a deficiency he shall not be prohibited from requiring additional monthly deposits in such escrow account to avoid or eliminate such deficiency.

(Pub. L. 93-533, § 10, Dec. 22, 1974, 88 Stat. 1728; Pub. L. 94-205, § 8, Jan. 2, 1976, 89 Stat. 1158.)

AMENDMENTS

1976—Pub. L. 94-205 provided that in addition to amounts required for the payment of taxes, insurance premiums, and other charges due at settlement, the buyer could not be required at settlement to place into an escrow account more than one-sixth of the estimated total amount of such taxes, insurance premiums, and other charges payable within a twelve month period beginning on the date of settlement, but the buyer could be required to make monthly payments into an escrow account sufficient to maintain a surplus of one-sixth of the estimated total amount payable in the coming twelve month period.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

§ 2610. Fee for preparation of truth-in-lending and uniform settlement statements

No fee shall be imposed or charge made upon any other person (as a part of settlement costs or otherwise) by a lender in connection with a federally related mortgage loan made by it (or a loan for the purchase of a mobile home), for or on account of the preparation and submission by such lender of the statement or statements required (in connection with such loan) by sections 2603 and 2605 of this title or by the Truth in Lending Act [15 U.S.C. 1601 et seq.].

(Pub. L. 93-533, § 12, Dec. 22, 1974, 88 Stat. 1729.)

REFERENCES IN TEXT

Section 2605 of this title, referred to in text, was repealed by Pub. L. 94-205, § 5, Jan. 2, 1976, 89 Stat. 1158.

Truth in Lending Act, referred to in text, is Title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146, and is classified generally to subchapter I (§ 1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables volume.

§ 2611. Land parcel recordation system; establishment on demonstration basis

The Secretary shall establish and place in operation on a demonstration basis, in representative political subdivisions (selected by him) in various areas of the United States, a model system or systems for the recordation of land title information in a manner and form calculated to facilitate and simplify land transfers and mortgage transactions and reduce the cost thereof, with a view to the possible development (utilizing the information and experience gained under this section) of a nationally uniform system of land parcel recordation.

(Pub. L. 93-533, § 13, Dec. 22, 1974, 88 Stat. 1730.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2612 of this title.

§ 2612. Report of Secretary on necessity for further Congressional action

(a) Administrative consultations; study, investigation, and hearings; time of submission

The Secretary, after consultation with the Administrator of Veterans' Affairs, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, and after such study, investigation, and hearings (at which representatives of consumers groups shall be allowed to testify) as he deems appropriate, shall, not less than three years nor more than five years from the effective date of this chapter, report to the Congress on whether, in view of the implementation of the provisions of this chapter imposing certain requirements and prohibiting certain practices in connection with real estate settlements, there is any necessity for further legislation in this area.

(b) Scope of report; specific practices or problems and corrective measures; cost burden for real estate settlement services; Federal regulation of charges and regulatory scheme; local government recordation of land title information and Federal assistance for development of a model system

If the Secretary concludes that there is necessity for further legislation, he shall report to the Congress on the specific practices or problems that should be the subject of such legislation and the corrective measures that need to be taken. In addition, the Secretary shall include in his report—

(1) recommendations on the desirability of requiring lenders of federally related mortgage loans to bear the costs of particular real estate settlement services that would otherwise be paid for by borrowers;

(2) recommendations on whether Federal regulation of the charges for real estate settlement services in federally related mortgage transactions is necessary and desirable, and, if he concludes that such regulation is necessary and desirable, a description and analysis of the regulatory scheme he believes Congress should adopt; and

(3) recommendations on the ways in which the Federal Government can assist and encourage local governments to modernize their methods for the recordation of land title information, including the feasibility of providing financial assistance or incentives to local governments that seek to adopt one of the model systems developed by the Secretary in accordance with the provisions of section 2611 of this title.

(Pub. L. 93-533, § 14, Dec. 22, 1974, 88 Stat. 1730.)

REFERENCES IN TEXT

For the effective date of this chapter, referred to in subsec. (a), see Effective Date note under section 2601 of this title.

§ 2613. Demonstration to determine feasibility of including statements of settlement costs in special information booklets; report to Congress

The Secretary shall, on a demonstration basis in selected housing market areas, have prepared and included in the special information booklets required to be furnished under section 2604 of this title, statements of the range of costs for specific settlement services in such areas. Not later than June 30, 1976, the Secretary shall transmit to the Congress a full report on the demonstration conducted under this section. Such report shall contain the Secretary's assessment of the feasibility of preparing and including settlement cost range statements for all housing market areas in the special information booklets for such areas.

(Pub. L. 93-533, § 15, Dec. 22, 1974, 88 Stat. 1730.)

§ 2614. Jurisdiction of courts; limitations

Any action to recover damages pursuant to the provisions of section 2605, 2607, or 2608 of this title may be brought in the United States district court for the district in which the property involved is located, or in any other court of competent jurisdiction, within one year from the date of the occurrence of the violation.

(Pub. L. 93-533, § 16, Dec. 22, 1974, 88 Stat. 1731.)

REFERENCES IN TEXT

Section 2605 of this title, referred to in text, was repealed by Pub. L. 94-205, § 5, Jan. 2, 1976, 89 Stat. 1158.

§ 2615. Contracts and liens; validity

Nothing in this chapter shall affect the validity or enforceability of any sale or contract for the sale of real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a federally related mortgage loan.

(Pub. L. 93-533, § 17, Dec. 22, 1974, 88 Stat. 1731.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning the Real Estate Settlement Procedures Act of 1974. For classification of this Act to the Code, see Short Title note under section 2601 of this title.

§ 2616. State laws unaffected; inconsistent Federal and State provisions

This chapter does not annul, alter, or affect, or exempt any person subject to the provisions of this chapter from complying with, the laws of any State with respect to settlement practices, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Secretary is authorized to determine whether such inconsistencies exist. The Secretary may not determine that any State law is inconsistent with any provision of this chapter if the Secretary determines that such law gives greater protection to the consumer. In making these determinations the Secretary shall consult with the appropriate Federal agencies.

(Pub. L. 93-533, § 18, Dec. 22, 1974, 88 Stat. 1731; Pub. L. 94-205, § 9, Jan. 2, 1976, 89 Stat. 1159.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning the Real Estate Settlement Procedures Act of 1974. For classification of this Act to the Code, see Short Title note under section 2601 of this title.

AMENDMENTS

1976—Pub. L. 94-205 struck out "(a)" preceding "This chapter" and deleted subsec. (b) which provided for Federal protection against liability for acts done or omitted in good faith in accordance with the rules, regulations, or interpretations issued by the Secretary. See section 2617 (b) of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-205 effective Jan. 2, 1976, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

§ 2617. Authority of Secretary

(a) The Secretary is authorized to prescribe such rules and regulations, to make such interpretations, and to grant such reasonable exemptions for classes of transactions, as may be necessary to achieve the purposes of this chapter.

(b) No provision of this chapter or the laws of any State imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Secretary or the Attorney General, notwithstanding that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(Pub. L. 93-533, § 19, as added Pub. L. 94-205, § 10, Jan. 2, 1976, 89 Stat. 1159.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), in the original read "this Act", meaning the Real Estate Settlement Procedures Act of 1974. For classification of this Act to the Code, see Short Title note set out under section 2601 of this title.

EFFECTIVE DATE

Section effective Jan. 2, 1976, see section 12 of Pub. L. 94-205, set out as a note under section 2602 of this title.

CHAPTER 28—EMERGENCY MORTGAGE RELIEF

Sec.

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2702. Mortgages eligible for assistance.
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2710. Reports to Congress; time; contents.
2711. Nonapplicability of other laws.
2712. Federal Deposit Insurance Corporation advances to insured banks.

§ 2701. Congressional findings and declaration of purpose

(a) The Congress finds that—

(1) the Nation is in a severe recession and that the sharp downturn in economic activity has driven large numbers of workers into unemployment and has reduced the incomes of many others;

(2) as a result of these adverse economic conditions the capacity of many homeowners to continue to make mortgage payments has deteriorated and may further deteriorate in the months ahead, leading to the possibility of widespread mortgage foreclosures and distress sales of homes; and

(3) many of these homeowners could retain their homes with temporary financial assistance until economic conditions improve.

(b) It is the purpose of this chapter to provide a standby authority which will prevent widespread mortgage foreclosures and distress sales of homes resulting from the temporary loss of employment and income through a program of emergency loans and advances and emergency mortgage relief payments to homeowners to defray mortgage expenses.

(Pub. L. 94-50, title I, § 102, July 2, 1975, 89 Stat. 249.)

Short Title

Section 1 of Pub. L. 94-50 provided: "That this Act [enacting this chapter, amending sections 1723e and 1735b of this title and sections 1452 and 4106 of Title 42, The Public Health and Welfare, enacting provisions set out as a note under this section, and amending provisions set out as a note under section 1723e of this title] may be cited as the 'Emergency Housing Act of 1975'."

Section 101 of Pub. L. 94-50 provided that: "This title [enacting this chapter] may be cited as the 'Emergency Homeowners' Relief Act'."

§ 2702. Mortgages eligible for assistance

No assistance shall be extended with respect to any mortgage under this chapter unless—

(1) the holder of the mortgage has indicated to the mortgagor its intention to foreclose;

(2) the mortgagor and holder of the mortgage have indicated in writing to the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") and to any agency or department of the Federal Government responsible for the regulation of the holder that circumstances (such as the volume of delinquent loans in its portfolio) make it probable that there will be a foreclosure and that the mortgagor is in need of emergency mortgage relief as authorized by this chapter, except that such statement by the holder of the mortgage may be waived by the Secretary if in his judgment such waiver would further the purposes of this chapter;

(3) payments under the mortgage have been delinquent for at least three months;

(4) the mortgagor has incurred a substantial reduction in income as a result of involuntary unemployment or underemployment due to adverse economic conditions and is financially unable to make full mortgage payments;

(5) there is a reasonable prospect that the mortgagor will be able to make the adjustments necessary for a full resumption of mortgage payments; and

(6) the mortgaged property is the principal residence of the mortgagor.

(Pub. L. 94-50, title I, § 103, July 2, 1975, 89 Stat. 249.)

Section Referred to in Other Sections

This section is referred to in sections 2703, 2705 of this title.

§ 2703. Manner of assistance and repayment

(a) Form of assistance

Assistance under this chapter with respect to a mortgage which meets the requirements of section 2702 of this title may be provided in the form of emergency mortgage relief loans and advances of credit insured pursuant to section 2704 of this title or in the form of emergency mortgage relief payments made by the Secretary pursuant to section 2705 of this title.

(b) Amount of assistance

Assistance under this chapter on behalf of a homeowner may be made available in an amount up to the amount of the principal, interest, taxes, ground rents, hazard insurance, and mortgage insurance premiums due under the homeowner's mortgage, but such assistance shall not exceed the lesser of $250 per month or

the amount determined to be reasonably necessary to supplement such amount as the homeowner is capable of contributing toward such mortgage payment.

(c) Monthly payments; extension of time; report of increase in income

Monthly payments may be provided under this chapter either with the proceeds of an insured loan or advance of credit or with emergency mortgage relief payments for up to twelve months, and, in accordance with criteria prescribed by the Secretary, such monthly payments may be extended once for up to twelve additional months. A mortgagor receiving the benefit of mortgage relief assistance pursuant to this chapter shall be required, in accordance with criteria prescribed by the Secretary, to report any increase in income which will permit a reduction or termination of such assistance during this period.

(d) Conditions and terms of repayment; interest rate

Emergency loans or advances of credit made and insured under section 2704 of this title, and emergency mortgage relief payments made under section 2705 of this title, shall be repayable by the homeowner upon such terms and conditions as the Secretary shall prescribe, except that interest on a loan or advance of credit insured under section 2704 of this title or emergency mortgage relief payments made under section 2705 of this title shall not be charged at a rate which exceeds the maximum interest rate applicable with respect to mortgages insured pursuant to section 1709(b) of this title.

(e) Deferral of commencement of repayment; security for repayment

The Secretary may provide for the deferral of the commencement of the repayment of a loan or advance insured under section 2704 of this title or emergency mortgage relief payments made under section 2705 of this title until one year following the date of the last disbursement of the proceeds of the loan or advance or payments or for such longer period as the Secretary determines would further the purpose of this chapter. The Secretary shall by regulation require such security for the repayment of insured loans or advances of credit or emergency mortgage relief payments as he deems appropriate and may require that such repayment be secured by a lien on the mortgaged property.

(Pub. L. 94-50, title I, § 104, July 2, 1975, 89 Stat. 250.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2704, 2705 of this title.

§ 2704. Insurance for emergency mortgage loans and advances

(a) Institutions eligible

The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to insure banks, trust companies, finance companies, mortgage companies, savings and loan associations, insurance companies, credit unions, and such other financial institutions, which the Secretary finds to be qualified by experience and facilities and approves as eligible for insurance, against losses which they may sustain as a result of emergency loans or advances of credit made in accordance with the provisions of section 2703 of this title and this section with respect to mortgages eligible for assistance under this chapter.

(b) Amount of insurance

In no case shall the insurance granted by the Secretary under this section to any financial institution on loans and advances made by such financial institution for the purposes of this chapter exceed 40 per centum of the total amount of such loans and advances made by the institution, except that, with respect to any individual loan or advance of credit, the amount of any claim for loss on such individual loan or advance of credit paid by the Secretary under the provision of this section shall not exceed 90 per centum of such loss.

(c) Premium charge; amount

The Secretary is authorized to fix a premium charge or charges for the insurance granted under this section, but in the case of any loan or advance of credit, such charge or charges shall not exceed an amount equivalent to one-half of 1 per centum per annum of the principal obligation of such loan or advance of credit outstanding at any time.

(d) Waiver of compliance with rules and regulations; finality and incontestability of payment for loss; transfer of insurance

The Secretary is authorized and empowered to waive compliance with any rule or regulation prescribed by the Secretary for the purposes of this section if, in the Secretary's judgment, the enforcement of such rule or regulation would impose an injustice upon an insured lending institution which has substantially complied with such regulations in good faith. Any payment for loss made to an insured financial institution under this section shall be final and incontestable after two years from the date the claim was certified for payment by the Secretary, in the absence of fraud or misrepresentation on the part of such institution unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two-year period. The Secretary is authorized to transfer to any financial institution approved for insurance under this chapter any insurance in connection with any loan which may be sold to it by another insured financial institution.

(e) Maximum aggregate amount of loans and advances insured

The aggregate amount of loans and advances insured under this section shall not exceed $1,500,000,000 at any one time.

(Pub. L. 94-50, title I, § 105, July 2, 1975, 89 Stat. 251.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2703, 2705, 2706 of this title.

§ 2705. Emergency mortgage relief payments

(a) Direct payments to mortgagee

In the case of any mortgagee which would otherwise be eligible to participate in the program authorized under section 2704 of this title

but does not qualify for an advance or advances as authorized by section 2712 of this title or under section 1430, 1430b, or 1431 of this title or otherwise elects not to participate in the program authorized under section 2704 of this title, the Secretary is authorized to make repayable emergency mortgage relief payments directly to such mortgagee on behalf of homeowners whose mortgages are held by such financial institution and who are delinquent in their mortgage payments.

(b) Mortgages eligible; terms and conditions

Emergency mortgage relief payments shall be made under this section only with respect to a mortgage which meets the requirements of section 2702 of this title and only on such terms and conditions as the Secretary may prescribe, subject to the provisions of section 2703 of this title.

(c) Processing of relief payments; power of Secretary

The Secretary may make such delegations and accept such certifications with respect to the processing of mortgage relief payments provided under this section as he deems appropriate to facilitate the prompt and efficient implementation of the assistance authorized under this section.

(Pub. L. 94-50, title I, § 106, July 2, 1975, 89 Stat. 251.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2703, 2706, 2708 of this title.

§ 2706. Emergency Homeowners' Relief Fund

(a)(1)[1] To carry out the purposes of this chapter, the Secretary is authorized to establish in the Treasury of the United States an Emergency Homeowners' Relief Fund (hereinafter in this chapter referred to as the "fund") which shall be available to the Secretary without fiscal year limitation—

(A) for making payments in connection with defaulted loans or advances of credit insured under section 2704 of this title;

(B) for making emergency mortgage relief payments under section 2705 of this title;

(C) To pay such administrative expenses (or portion of such expenses) of carrying out the provisions of this chapter as the Secretary may deem necessary.

(2) The fund shall be credited with—

(A) all amounts received by the Secretary as premium charges for insurance or as repayment for emergency mortgage relief payments under this chapter and all receipts, earnings, collections, or proceeds derived from any claim or other assets acquired by the Secretary under this Act; and

(B) such amounts as may be appropriated for the purposes of this chapter.

(Pub. L. 94-50, title I, § 107, July 2, 1975, 89 Stat. 252.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(2)(A), is the Emergency Housing Act of 1975, which in addition to enacting this chapter, amended sections 1723e, 1723e note and 1735b of this title, and sections 1452 and 4106 of Title 42, The Public Health and Welfare.

§ 2707. Authority of Secretary

(a) Rules and regulations

The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this chapter.

(b) Payment of expenses and charges relating to acquisition, handling, improvement, or disposal of real and personal property

Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real or other property by the United States, the Secretary shall have power, for the protection of the interest of the fund authorized under this chapter, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by the Secretary as a result of recoveries under security, subrogation, or other rights.

(c) Powers with respect to property rights held by Secretary

In the performance of, with respect to, the functions, powers, and duties vested in the Secretary by this chapter, the Secretary shall—

(1) have the power, notwithstanding any other provision of law, whether before or after default, to provide by contract or otherwise for the extinguishment upon default of any redemption, equitable, legal, or other right, title in any mortgage, deed, trust, or other instrument held by or held on behalf of the Secretary under the provisions of this chapter; and

(2) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which assistance has been provided pursuant to this chapter. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary also shall have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this chapter.

(Pub. L. 94-50, title I, § 108, July 2, 1975, 89 Stat. 252.)

§ 2708. Authorization of appropriations; limitations; expiration date for loans and advances of credit

(a) There are authorized to be appropriated for purposes of this chapter such sums as may be necessary, except that the funds authorized to be appropriated for section 2705 of this title shall not exceed $500,000,000. Any amounts so appropriated shall remain available until expended.

(b) No loans or advance of credit shall be insured and no emergency mortgage relief pay-

[1] So in original. Section enacted without a subsec. (b).

ments made under this chapter after September 30, 1977, except if such loan or advance or such payments are made with respect to a mortgagor receiving the benefit of a loan or advance insured, or emergency mortgage relief payments made, under this chapter on such date.

(Pub. L. 94-50, title I, § 109, July 2, 1975, 89 Stat. 253; Pub. L. 94-375, § 13(a), Aug. 3, 1976, 90 Stat. 1075.)

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-375 substituted "September 30, 1977" for "June 30, 1976".

§ 2709. Waiver and relaxation by institutions and approved mortgagees of limitations with respect to mortgage delinquencies; notification to Federal supervisory agency prior to foreclosure proceedings

(a)[1] Each Federal supervisory agency with respect to financial institutions subject to its jurisdiction, and the Secretary, with respect to other approved mortgagees, shall (1) prior to October 1, 1977, take appropriate action, not inconsistent with laws relating to the safety or soundness of such institutions or mortgagee, as the case may be, to waive or relax limitations pertaining to the operations of such institutions or mortgagees with respect to mortgage delinquencies in order to cause or encourage forebearance in residential mortgage loan foreclosures, and (2) until one year from July 2, 1975, request each such institution or mortgagee to notify that Federal supervisory agency, the Secretary, and the mortgagor, at least thirty days prior to instituting foreclosure proceedings in connection with any mortgage loan. As used in this chapter the term "Federal supervisory agency" means the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration.

(Pub. L. 94-50, title I, § 110, July 2, 1975, 89 Stat. 253; Pub. L. 94-375, § 13(b), Aug. 3, 1976, 90 Stat. 1075.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-375 substituted "Each" for "Until one year from July 2, 1975, each", and inserted "prior to October 1, 1977" following "(1)", and "until one year from July 2, 1975" following "(2)".

§ 2710. Reports to Congress; time; contents

Within sixty days after July 2, 1975, and within each sixty-day period thereafter prior to October 1, 1977, the Secretary shall make a report to the Congress on (1) the current rate of delinquencies and foreclosures in the housing market areas of the country which should be of immediate concern if the purposes of this chapter is to be achieved; (2) the extent of, and prospect for continuance of, voluntary forebearance by mortgagees in such housing market areas; (3) actions being taken by governmental agencies to encourage forebearance by mortgagees in such housing market areas; (4) actions taken and actions likely to be taken with respect to making assistance under this chapter available to alleviate hardships resulting from any serious rates of delinquencies and foreclosures; and (5) the current default status and projected default trends with respect to mortgages covering multifamily properties with special attention to mortgages insured under the various provisions of the National Housing Act [12 U.S.C. 1701 et seq.] and with recommendations on how such defaults and prospective defaults may be cured or avoided in a manner which, while giving weight to the financial interests of the United States, takes into full consideration the urgent needs of the many low- and moderate-income families that currently occupy such multifamily properties.

(Pub. L. 94-50, title I, § 111, July 2, 1975, 89 Stat. 253; Pub. L. 94-375, § 13(c), Aug. 3, 1976, 90 Stat. 1075.)

REFERENCES IN TEXT

The National Housing Act, referred to in text, is classified to chapter 13 (§ 1701 et seq.) of this title.

AMENDMENTS

1976—Pub. L. 94-375 substituted "October 1, 1977" for "July 1, 1976".

§ 2711. Nonapplicability of other laws

Notwithstanding any provision of law which limits the nature, amount, term, form, or rate of interest, or the nature, amount, or form of security of loans or advances of credit, loans, or advances of credit may be made in accordance with the provisions of this chapter without regard to such provision of law.

(Pub. L. 94-50, title I, § 112, July 2, 1975, 89 Stat. 254.)

§ 2712. Federal Deposit Insurance Corporation advances to insured banks

Notwithstanding any other provision of law, the Federal Deposit Insurance Corporation is authorized, upon such terms and conditions as the Corporation may prescribe, to make such advances to any insured bank as the Corporation determines may be necessary or appropriate to facilitate participation by such bank in the program authorized by this chapter. For the purpose of obtaining such funds as it determines are necessary for such advances, the Corporation may borrow from the Treasury as authorized in section 1824 of this title, and the Secretary of the Treasury is authorized and directed to make loans to the Corporation for such purpose in the same manner as loans may be made for insurance purposes under such section, subject to the maximum limitation on outstanding aggregate loans there provided.

(Pub. L. 94-50, title I, § 113, July 2, 1975, 89 Stat. 254.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2705 of this title.

[1] So in original. Section enacted without a subsec. (b).

CHAPTER 29—HOME MORTGAGE DISCLOSURE

Sec.
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2802. Definitions.
2803. Maintenance of records and public disclosure.
(a) Duty of depository institutions; nature and content of information.
(b) Itemization of loan data.
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2804. Enforcement.
(a) Regulations.
(b) Powers of certain other agencies.
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2805. Relation to state laws.
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2807. Study of feasibility of disclosure by depository institutions outside metropolitan areas; report to Congress.
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§ 2801. Congressional findings and declaration of purpose

(a) Findings of Congress

The Congress finds that some depository institutions have sometimes contributed to the decline of certain geographic areas by their failure pursuant to their chartering responsibilities to provide adequate home financing to qualified applicants on reasonable terms and conditions.

(b) Purpose of chapter

The purpose of this chapter is to provide the citizens and public officials of the United States with sufficient information to enable them to determine whether depository institutions are filling their obligations to serve the housing needs of the communities and neighborhoods in which they are located and to assist public officials in their determination of the distribution of public sector investments in a manner designed to improve the private investment environment.

(c) Construction of chapter

Nothing in this chapter is intended to, nor shall it be construed to, encourage unsound lending practices or the allocation of credit.

(Pub. L. 94-200, title III, § 302, Dec. 31, 1975, 89 Stat. 1125.)

Short Title

Section 301 of Pub. L. 94-200 provided that: "This title [this chapter] may be cited as the 'Home Mortgage Disclosure Act of 1975'."

§ 2802. Definitions

For purposes of this chapter—

(1) the term "mortgage loan" means a loan which is secured by residential real property or a home improvement loan;

(2) the term "depository institution" means any commercial bank, savings bank, savings and loan association, building and loan association, or homestead association (including cooperative banks) or credit union which makes federally related mortgage loans as determined by the Board;

(3) the term "Board" means the Board of Governors of the Federal Reserve System; and

(4) the term "Secretary" means the Secretary of Housing and Urban Development.

(Pub. L. 94-200, title III, § 303, Dec. 31, 1975, 89 Stat. 1125.)

§ 2803. Maintenance of records and public disclosure

(a) Duty of depository institutions; nature and content of information

(1) Each depository institution which has a home office or branch office located within a standard metropolitan statistical areas, as defined by the Office of Management and Budget shall compile and make available, in accordance with regulations of the Board, to the public for inspection and copying at the home office, and at at[1] least one branch office within each standard metropolitan statistical area in which the depository institution has an office the number and total dollar amount of mortgage loans which were (A) originated, or (B) purchased by that institution during each fiscal year (beginning with the last full fiscal year of that institution which immediately preceded the effective date of this chapter).

(2) The information required to be maintained and made available under paragraph (1) shall also be itemized in order to clearly and conspicuously disclose the following:

(A) The number and dollar amount for each item referred to in paragraph (1), by census tracts, where readily available at a reasonable cost, as determined by the Board, otherwise by ZIP code, for borrowers, under mortgage loans secured by property located within that standard metropolitan statistical area.

(B) The number and dollar amount for each item referred to in paragraph (1) for all such mortgage loans which are secured by property located outside that standard metropolitan statistical area.

For the purpose of this paragraph, a depository institution which maintains offices in more than one standard metropolitan statistical area shall be required to make the information required by this paragraph available at any such office only to the extent that such information relates to mortgage loans which were originated or purchased by an office of that depository institution located in the standard metropolitan statistical area in which the office making such information available is located.

(b) Itemization of loan data

Any item of information relating to mortgage loans required to be maintained under subsection (a) of this section shall be further itemized in order to disclose for each such item—

(1) the number and dollar amount of mortgage loans which are insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.] or which are guaranteed under chapter 37 of title 38;

(2) the number and dollar amount of mortgage loans made to mortgagors who did not, at the time of execution of the mortgage,

[1] So in original.

intend to reside in the property securing the mortgage loan; and

(3) the number and dollar amount of home improvement loans.

(c) Period of maintenance

Any information required to be compiled and made available under this section shall be maintained and made available for a period of five years after the close of the first year during which such information is required to be maintained and made available.

(Pub. L. 94-200, title III, § 304, Dec. 31, 1975, 89 Stat. 1125.)

REFERENCES IN TEXT

For the effective date of this chapter, referred to in subsec. (a)(1), see section 2808 of this title.

Title II of the National Housing Act, referred to in subsec. (b)(1), is classified to subchapter II (§ 1707 et seq.) of chapter 13 of this title.

Title V of the Housing Act of 1949, referred to in subsec. (b)(1), is classified to subchapter III (§ 1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare.

§ 2804. Enforcement

(a) Regulations

The Board shall prescribe such regulations as may be necessary to carry out the purposes of this chapter. These regulations may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary and proper to effectuate the purposes of this chapter, and prevent circumvention or evasion thereof, or to facilitate compliance therewith.

(b) Powers of certain other agencies

Compliance with the requirements imposed under this chapter shall be enforced under—

(1) section 1818 of this title, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System, other than national banks, by the Board;

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and mutual savings banks as defined in section 1813(f) of this title and any other depository institution not referred to in this paragraph or paragraph (2) or (3) of this subsection, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 1464(d) of this title, section 1730 of this title, and sections 1426(i) and 1437 of this title, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of any institution subject to any of those provisions; and

(3) the Federal Credit Union Act [12 U.S.C. 1751 et seq.], by the Administrator of the National Credit Union Administration with respect to any credit union.

(c) Violations of this chapter deemed violations of certain other provisions

For the purpose of the exercise by any agency referred to in subsection (b) of this section of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this chapter shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b) of this section, each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this chapter, any other authority conferred on it by law.

(Pub. L. 94-200, title III, § 305, Dec. 31, 1975, 89 Stat. 1126.)

REFERENCES IN TEXT

The Federal Credit Union Act, referred to in subsec. (b)(3), is act June 26, 1934, ch. 750, 48 Stat. 1216, which is classified generally to chapter 14 (§ 1751 et seq.) of this title. For complete classification of this Act to the Code, see Tables volume.

§ 2805. Relation to state laws

(a) This chapter does not annul, alter, or affect, or exempt any State chartered depository institution subject to the provisions of this chapter from complying with the laws of any State or subdivision thereof with respect to public disclosure and recordkeeping by depositor institutions, except to the extent that those laws are inconsistent with any provision of this chapter, and then only to the extent of the inconsistency. The Board is authorized to determine whether such inconsistencies exist. The Board may not determine that any such law is inconsistent with any provision of this chapter if the Board determines that such law requires the maintenance of records with greater geographic or other detail than is required under this chapter, or that such law otherwise provides greater disclosure than is required under this chapter.

(b) The Board may by regulation exempt from the requirements of this chapter any State chartered depository institution within any State or subdivision thereof if it determines that, under the law of such State or subdivision, that institution is subject to requirements substantially similar to those imposed under this chapter, and that such law contains adequate provisions for enforcement. Notwithstanding any other provision of this subsection, compliance with the requirements imposed under this subsection shall be enforced under—

(1) Section 1818 of this title in the case of national banks, by the Comptroller of the Currency; and

(2) Section 1464(d) of this title in the case of any institution subject to that provision, by the Federal Home Loan Bank Board.

(Pub. L. 94-200, title III, § 306, Dec. 31, 1975, 89 Stat. 1127.)

§ 2806. Research and improved methods; authorization of appropriations; recommendations to Congressional committees

(a)(1) The Federal Home Loan Bank Board, with the assistance of the Secretary, the Director of the Bureau of the Census, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and such other

persons as the Federal Home Loan Bank Board deems appropriate, shall develop, or assist in the improvement of, methods of matching addresses and census tracts to facilitate compliance by depository institutions in as economical a manner as possible with the requirements of this chapter.

(2) There is authorized to be appropriated such sums as may be necessary to carry out this subsection.

(3) The Federal Home Loan Bank Board is authorized to utilize, contract with, act through, or compensate any person or agency in order to carry out this subsection.

(b) The Federal Home Loan Bank Board shall recommend to the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate such additional legislation as the Federal Home Loan Bank Board deems appropriate to carry out the purpose of this chapter.

(Pub. L. 94-200, title III, § 307, Dec. 31, 1975, 89 Stat. 1127; H. Res. 5, Jan. 4, 1977.)

CHANGE OF NAME

The Committee on Banking, Currency and Housing of the House of Representatives was redesignated as the Committee on Banking, Finance and Urban Affairs, by House Resolution 5, 95th Congress, effective Jan. 4, 1977.

§ 2807. Study of feasibility of disclosure by depository institutions outside metropolitan areas; report to Congress

(a) The Board, in consultation with the Secretary of Housing and Urban Development, is authorized and directed to carry out a study to determine the feasibility and usefulness of requiring depository institutions located outside standard metropolitan statistical areas, as defined by the Office of Management and Budget, to make disclosures comparable to those required by this chapter.

(b) A report on the study under this section shall be transmitted to the Congress not later than three years after December 31, 1975.

(Pub. L. 94-200, title III, § 308, Dec. 31, 1975, 89 Stat. 1128.)

§ 2808. Effective date

This chapter shall take effect on the one hundred and eightieth day beginning after December 31, 1975. Any depository institution which has total assets as of its last full fiscal year of $10,000,000 or less is exempt from the provisions of this chapter.

(Pub. L. 94-200, title III, § 309, Dec. 31, 1975, 89 Stat. 1128.)

§ 2809. Termination of authority

The authority granted by this chapter shall expire four years after its effective date.

(Pub. L. 94-200, title III, § 310, Dec. 31, 1975, 89 Stat. 1128.)

REFERENCES IN TEXT

For the effective date of this chapter, see section 2808 of this title.